

1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

2 -----x
UNITED STATES OF AMERICA,

3 Plaintiff,

Docket No.:

05 CR 60 (NGG)

4 versus

5 VINCENT BASCIANO,

U.S. Courthouse

225 Cadman Plaza East

6 Brooklyn, NY 11201

Defendant.

7 -----x
April 21, 2011

8 9:35 a.m.

9 Transcript of Criminal Cause for Trial

10 Before: HONORABLE NICHOLAS G. GARAUFIS,

District Court Judge

11 (and a jury.)

12 APPEARANCES

13 For the Government:

LORETTA E. LYNCH, ESQ.

United States Attorney

14 Eastern District of New York

271 Cadman Plaza East

15 Brooklyn, New York 11201

BY: TARYN MERKL, ESQ.,

16 JACK DENNEHY, ESQ.,

17 NICOLE ARGENTIERI, ESQ.,

STEPHEN FRANK, ESQ.,

Assistant U.S. Attorneys

18 For the Defendant:

GEORGE GOLTZER, ESQ.

19 RICHARD JASPER, ESQ.

20 YING STAFFORD, ESQ.

21 Court Reporter:

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1 (In open court.)

2 (Defendant present.)

3 THE COURT: Please be seated.

4 Case on trial. Appearances, please.

5 MR. DENNEHY: For the government, Jack Dennehy, Taryn
6 Merkl, Nicole Argentieri, Stephen Frank. Good morning.

7 THE COURT: Good morning.

8 MR. GOLTZER: George Goltzer, Richard Jasper for
9 Mr. Basciano, who is also present. Good morning.

10 THE COURT: Good morning.

11 MS. MERKL: Your Honor, there is just one brief matter
12 that I wanted to raise with the court. I have been advised by
13 the daughter of Mr. Pizzolo, the victim's daughter, that she
14 would like to attend part of the proceedings here today. She
15 may or may not be coming with her husband.

16 The reason I raise it with the court is both of these
17 individuals are on the government's witness list and are
18 potential witnesses, either in the guilt phase or the penalty
19 phase. I've spoken to Mr. Goltzer about it.

20 I'm going to tell Mr. Cordero, her husband, that I
21 would prefer for him not to be in the courtroom; but, under the
22 Victims Rights Act, the Justice for All Act, your Honor, the
23 law requires that victims be permitted to attend public court
24 proceedings unless the court determines upon clear and
25 convincing evidence that the testimony of the victim would be

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1 materially altered if the victim heard other testimony at the
2 proceeding.

3 I have spoken to Mr. Goltzer about it. He doesn't
4 seem to have a concern that Ms. Cordero's testimony would be
5 influenced in any way by hearing part of Mr. Massino's
6 information.

7 We understand and would debate at a different point if
8 she wanted to attend different proceedings with different
9 witnesses, but I just wanted to advise the court that contrary
10 to the normal rule, we may have a victim who may also be a
11 witness in the courtroom today and give Mr. Basciano's team an
12 opportunity to object and present any evidence they choose to
13 present to your Honor to exclude her from the proceedings, if
14 they even deem that appropriate.

15 MR. GOLTZER: With respect to the remainder of today,
16 Mr. Massino and the surveillance witnesses we expect, as well
17 as the remote possibility that Mr. Tartaglione begins his
18 testimony, we have no objection to her presence. We have told
19 the government that we expect if the government doesn't call
20 her, we may well call her as our witness. So she is clearly a
21 potential witness.

22 We have also indicated to the government and would
23 object if she wanted to sit here during Mr. Cicale's testimony,
24 but we are not up to that yet.

25 MS. MERKL: I don't anticipate that will be likely,

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1 your Honor.

2 Ms. Cordero is a student. This is her spring break
3 week. This is the week she has some time available to sit in
4 the proceedings. She wanted to come to more of trial, but she
5 obviously is trying to earn her degree, and coming every day
6 would interfere with her studies. So this is the day she had
7 available.

8 THE COURT: And who is the other person?

9 MS. MERKL: It's her husband, Samuel Cordero; and we
10 do expect he will be a potential fact witness, and I'm going to
11 encourage him not to come into the courtroom.

12 MR. GOLTZER: He is not a victim, and we would ask the
13 court to invoke the rule with respect to him. He is related
14 through marriage; he is not a blood relative.

15 MS. MERKL: That seems reasonable.

16 THE COURT: Ms. Cordero, there is no objection from
17 the defense for Ms. Cordero to attend the trial for today. I
18 will take it day by day, should she wish to come back.

19 However, her husband, who is not a victim and may be a
20 witness later on in these proceedings, will not be permitted to
21 attend the trial in the courtroom. I'm not sure what's going
22 on anywhere else in the building, whether there are -- whether
23 there are -- there is a hookup in the cafeteria or not. There
24 was earlier in the trial, but I assume you wouldn't want him
25 there either.

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1 MR. GOLTZER: No.

2 THE COURT: All right.

3 MS. MERKL: I don't know if that hookup is still on or
4 not.

5 THE COURT: Well, assuming that it is, he is not to
6 attend in the courtroom or anywhere else in the building where
7 the trial may be on video.

8 MS. MERKL: Okay. We will so advise him, your Honor,
9 and thank you. I just wanted to raise it for everybody's
10 information.

11 MR. GOLTZER: One more brief housekeeping matter, if I
12 may. There are some tapes that will be coming in to
13 Mr. Tartaglione. On one of the tapes there is a passage that
14 has come in at prior proceedings, and we expect the ruling
15 would be the same, but when it's convenient, before that tape
16 is played, we would like to preserve a point, a legal point,
17 whenever it's convenient.

18 THE COURT: Well, we are getting ahead of ourselves,
19 but thanks for letting me know. All right.

20 Everybody ready?

21 MR. JASPER: Yes, your Honor.

22 THE COURT: Bring in the witness.

23 Mr. Jasper, do you have an ETC, estimated time of
24 completion?

25 MR. JASPER: Yes. My goal is -- my goal is an hour

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1 and a half or two hours, if that long. I'm trying to -- I'm
2 cutting through -- not cutting through. I have streamlined
3 January 7. So we will be skipping about three or four clips.

4 THE COURT: Okay. All right. Thank you very much.

5 Ms. Merkl, you will have enough witnesses for today, I
6 take it?

7 MS. MERKL: We expect so.

8 THE COURT: Because word is that this witness is going
9 to take only another hour and a half on direct -- rather, on
10 cross.

11 MS. MERKL: We expect -- we have adapted our plans,
12 your Honor.

13 THE COURT: All right. Please bring in the jury.

14 (Mr. Massino resumed the stand.)

15 THE COURT: Ms. Merkl, regarding that individual who
16 is going to be in here today, do the folks out in the hallway
17 know who that is?

18 MS. MERKL: Special Agent Ypelaar stepped outside to
19 advise them of your Honor's ruling.

20 THE COURT: Okay. Thank you. I'm getting some static
21 on the loudspeaker system. So if everybody could please turn
22 off their PDAs and cell phones, not just in the vibrate
23 position but in the off position, that will facilitate
24 resolving that problem.

25 (Continued on the next page.)

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Massino - Cross/Jasper

1 (Jury enters.)

2 THE COURT: Please be seated. Good morning, members
3 of the jury.

4 (Jury responds.)

5 THE COURT: At this time we will continue with the
6 cross-examination of the witness by Mr. Jasper.

7 The witness is reminded that he is still under oath.

8 THE WITNESS: Thank you, your Honor.

9 THE COURT: You are welcome.

10 You may continue then.

11 MR. JASPER: Thank you, your Honor.

12 CROSS-EXAMINATION

13 BY MR. JASPER:

14 Q Mr. Massino, before we go back to the tape, I just want to
15 ask you a couple of questions.

16 Did you receive messages while you were in jail from
17 James Tartaglione, Big Lou, from a person named Scott Lehman?

18 A Yes, I did.

19 Q Scott Lehman is an attorney, sir?

20 A Yes, he is.

21 Q And did you receive messages over a period of time while
22 you were incarcerated?

23 A Yes.

24 Q From Big Lou?

25 A Yes.

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Massino - Cross/Jasper

1 Q Now, Big Lou is also known -- his name is James
2 Tartaglione; is that correct?

3 A That's correct.

4 Q And you received those messages in 2003; is that so?

5 A That's so.

6 Q And in 2003 Big Lou was on parole, sir?

7 A I believe so.

8 Q Did you ever ask Big Lou to send messages to you through
9 your wife?

10 A Never.

11 Q Also, regarding messages, did you receive messages from Joe
12 Chilli, Junior while you were incarcerated?

13 A I was on the floor. We were sentenced together. We were
14 in the same cell.

15 Q Now, Joe Chilli, Junior, he is a member of the Bonanno
16 Family?

17 A He is a wiseguy in the family, that's correct.

18 Q And he had a father who was out on the street, Joe Chilli,
19 Senior?

20 A He is a captain in the Bonanno Family.

21 Q Joe Chilli, Senior was a captain in your family?

22 A That's correct.

23 Q Did you receive messages from the street while you were
24 incarcerated from Joe Chilli, Senior, from Joe Chilli, Senior?

25 A Sometimes.

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Massino - Cross/Jasper

1 Q Did you send messages out through Joe Chillli, Junior to his
2 father while he was in the street, yes or no?

3 A Yes.

4 Q Now, I just have a question or two regarding Fat Frankie
5 Esposito.

6 Fat Frankie, did you receive about \$62,500 as
7 Christmas money from Fat Frankie in 2003?

8 A I think I got half of that.

9 Q Did you receive that from him in 2003?

10 A I believe so.

11 Q Half of 62,500, correct?

12 A Correct.

13 Q In 2003 the panel was headed up by Tony Urso; is that
14 correct, sir?

15 A Correct.

16 Q The panel was Tony Urso, Joe Cammarano, Senior, and do you
17 remember who else was on the panel?

18 A Yes, I do.

19 Q Who was that?

20 A Petey Rabbit.

21 Q Petey Rabbit?

22 A Petey Calabrese.

23 Q In 2003?

24 A That's correct.

25 Q Now, also regarding messages, did you receive a message to

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1 induct Joey Gambina prior to November 2004, sure?

2 A I don't recall.

3 MR. JASPER: Now, your Honor, at this time I would
4 like to go to that is half played, clip 17 of Government's
5 405-T. That starts, sir, at page 86.

6 (Recording played.)

7 THE COURT: We are still having problems with the
8 public address system.

9 MS. MERKL: We tried to investigate it before this
10 morning's proceedings, your Honor. I'm just not sure which
11 buttons.

12 Your Honor, I think we just need to switch the cable.

13 THE COURT: Well, do what you need to do.

14 In the meantime, please proceed, Mr. Jasper.

15 MR. JASPER: Yes, sir.

16 BY MR. JASPER:

17 Q Mr. Massino, I would like to direct your attention to
18 page 86, line 18.

19 Do you have that?

20 A Yes, I do.

21 Q At line 18:

22 "Massino: But as of last week, they still stugotz
23 (ph), still bitchy, going on outside.

24 "Basciano: They still what?

25 "Massino: Still trouble outside with the family.

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Massino - Cross/Jasper

1 "Basciano: Shouldn't be. They were tight when I left
2 them. When I left them, they were tight.

3 "Massino: I got about five messages.

4 "Basciano: I tell you one thing, Dominick had a big
5 hair up his nose with Michael. I says calm the F down. He
6 says, Vinny, I'm not going to let Michael abuse me. I said, I
7 said, tell Dominick, listen to Dominick, because Dominick says,
8 Vinny, it's getting out of hand because everybody is doing what
9 they want to do."

10 Now, up at line 18, when you say, "There is still
11 bitching going on," and line 21, "Still trouble outside with
12 the family," are you referring to the tension and conflict, as
13 you understand it, between Michael Mancuso and Dominick Cicale?

14 A I didn't know at that point what was going on.

15 Q Well, at line 21 when you say, "Still trouble outside with
16 the family," you are not referring to that conflict between
17 those two individuals?

18 A I don't know what was going on. I know there was a
19 problem.

20 Q At line 24:

21 "Massino: I got about five messages."

22 Did you get, in fact, five messages about problems
23 with the family, sir?

24 A There was about five messages that were given to Alfred
25 that was given to me, correct.

Massino - Cross/Jasper

1 Q So you did receive five messages about problems?

2 A Three or four messages, five.

3 Q And then turning to page 87, at line 6:

4 "Basciano: Dominick said, Vinny, it's getting out of
5 hand. Everybody is doing what they want to do. I says check
6 with them first, check with them. He says everybody is going
7 in their own direction and doing what they want to do.

8 "Massino" at line 12, "They waiting to hear. They,
9 they, they are waiting hear from me. Now, I can't send no
10 message for him. I got to wait till I get on the floor."

11 At line 12, are you indicating to Mr. Basciano that
12 you have to get out of the SHU, out of the Special Housing
13 Unit, before you can send messages?

14 A That's correct.

15 Q And is it your understanding in line 6 through 11 that one
16 of the things Mr. Basciano is saying to Dominick Cicale is to
17 check with the captains?

18 MS. MERKL: Objection.

19 BY MR. JASPER:

20 Q Is that your understanding?

21 THE COURT: What's the objection?

22 MS. MERKL: To "saying."

23 THE COURT: I'm sorry?

24 MS. MERKL: It's a form objection, your Honor.

25 THE COURT: All right. You can reask your question.

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Massino - Cross/Jasper

1 BY MR. JASPER:

2 Q Do you see the lines 6 through 11, sir?

3 A Yes, sir, I do.

4 Q You have read this before many times; is that correct?

5 A Correct.

6 Q When the attribution to Mr. Basciano, "I says check with
7 them first," do you have an understanding of what he is talking
8 about?

9 A Again, he is talking about checking with Anthony and
10 Michael Nose.

11 Q Who is he -- what is your understanding of who he is
12 talking to or saying that he told that to?

13 A Well, he had to send a message out. I believe he send a
14 message through his son.

15 Q And the message is to check with the captains?

16 A To check with Michael Nose, the acting boss of the Bonanno
17 Family, and Fat Anthony Rubino, the acting consigliere of the
18 Bonanno Family.

19 Q The panel at that time?

20 A That's correct.

21 Q Would you turn to page 88, line 13.

22 "Basciano: Let me ask you a question.

23 "Massino: Now you got three different families.

24 Can't do that.

25 "Basciano: Let me ask you a question. I'm, I do six,

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1 seven years, for the sake of the conversation, I cop out to six
2 years.

3 "Massino: Right.

4 "Basciano: Okay.

5 "Massino: You come out, you got a position."

6 Now, what are you indicating there to Mr. Basciano
7 about when you say, "You come out, you got a position," what
8 did you mean there?

9 A He is telling me he thinks he is going to cop out to five
10 or six years, and when he comes out will he still have a
11 position. I said yes.

12 Q This is after the conversations regarding Randy Pizzolo,
13 correct?

14 A Correct.

15 MR. JASPER: Your Honor, at this time I would ask that
16 we have clip 18 played, which is -- occurs on page 89 at
17 line 14.

18 (Recording played.)

19 BY MR. JASPER:

20 Q Mr. Massino, would you turn to page 89, where that clip
21 began, line 19. Ready?

22 A Ready.

23 Q At line 19 it says:

24 "Massino: I went through three wars. I'm not going
25 to tell you -- I'm going to do something, it's for a reason. A

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1 guy's got to be around eight years. Why? Donnie Brasco almost
2 got in. They ain't going to put an agent to wait eight years
3 to become a friend. That was my logic of waiting eight years."

4 Now, this again refers to the time period where a
5 person needs to be known by somebody before they can be
6 inducted, correct?

7 A For eight years, correct.

8 Q And that came about because of your concern about Donnie
9 Brasco, who was an alias for an FBI agent, correct?

10 A Correct.

11 Q Who was about to be inducted?

12 A He would have, yes.

13 Q Now, when you said, "I went through three wars," are you
14 saying there that you survived three wars?

15 A Actually, I didn't go through three wars, but what I went
16 through is when Carmine Galante made himself the boss, I didn't
17 know if -- when I got straightened out, there was five of us.
18 And he questioned each one of us, who is the boss, you are.
19 Asked Joe Chilli, who is the boss, you are. Manny from the
20 Bronx, who is the boss, you are. Anthony Rastulo, who is the
21 boss, you are.

22 He asked me, I told him Phil Rastelli. He had a paper
23 in his mouth. He said you are right. As of last week, I just
24 looked at him. I didn't say anything.

25 Q So my question to you is that ultimately Carmine Galante

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1 was murdered, correct?

2 A Correct.

3 Q Was that one of the wars you that you went to or saw it
4 with your own two eyes?

5 A About if he got murdered, I could have got killed at any
6 time, yes.

7 Q I understand. My question is: Was this the first war that
8 you are referring to, was that the Carmine Galante/Rusty
9 Rastelli conflict?

10 A Correct.

11 Q And the second war, would that have been the three
12 captains' conflict?

13 A No.

14 Q What was the second war?

15 A The second problem was we had -- was me, Sonny Black, and
16 Stevie Beef. Then we had the zips, Sonny Red, Philly Lucky,
17 they were against us. It was three against them. It was two.

18 Q I'm sorry?

19 A Go ahead.

20 Q I'm sorry. Did you complete your -- I don't want to cut
21 you off.

22 A No. We didn't know if we was going to get clipped at any
23 time. So really it wouldn't have been a war. We would have
24 just got killed.

25 Q So then you said you, Sonny Black?

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1 A And Stevie Beef.

2 Q And Stevie Beef were concerned about Sonny Red, Big
3 Trinnie, and Phil Lucky, right?

4 A And the zips.

5 Q And the zips?

6 A At that time, Salvatore Catalano was the acting boss, and
7 they all were together.

8 Q Now, what you are saying is at that time the zips, as you
9 call them, were aligned with --

10 A Sonny Red, Philly Lucky, yes.

11 Q And a zip, again, is somebody from Italy?

12 A Somebody that comes from Italy. We call them greaseballs
13 or zips.

14 Q Is it just all of Italy or is it any particular region in
15 Italy?

16 A Any Italian guys that come from Italy and they are
17 wiseguys, we call them greaseballs or zips.

18 Q And was there, in fact, a third war that you are referring
19 to here?

20 A Correct.

21 Q Was there a third war or conflict situation?

22 A Correct.

23 Q I'm sorry?

24 A When we killed the three captains that night, Sonny Black
25 was supposed to be in there. He didn't trust them. He says

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1 your balls are too big, they are going to kill you, it's a
2 setup. He didn't go in. He was outside. That's how come that
3 door was open.

4 Frank Lino got away. He ran away. And the only
5 reason why my brother-in-law was there with a machine gun,
6 because he put that seed in my head. I said, look at this, you
7 got four shooters, they are all zips. You got George in there,
8 you got Tony Giordano, and you got Ligammari. You got seven,
9 and I really was the only American guy.

10 So, yes, I could have got killed, correct. I took a
11 shot. I believed him, and I went in there.

12 Q You took a shot. You believed in who, sir?

13 A I believed they weren't going to kill me.

14 Q And so are you telling us that of the four shooters that --
15 of the five shooters that were in the closet, four of them were
16 from Italy?

17 A Correct.

18 Q And are you saying that you didn't trust fully the four
19 shooters who were from Italy in the closet?

20 A I had my doubts because Sonny Black planted a seed in my
21 head.

22 Q Sonny Black?

23 A Correct. That's why he didn't come in.

24 Q And that's why the door was open.

25 A He, George, forgot to lock the door, but if he was outside

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1 like he was supposed to be, Frankie Lino would never got away.

2 Q And you would have eventually murdered Sonny Black?

3 A Not for that, for a whole different thing.

4 Q You murdered Sonny Black for another reason?

5 A That's right.

6 MS. MERKL: Asked and answered, your Honor.

7 THE COURT: Overruled. Keep going.

8 BY MR. JASPER:

9 Q Now, sir, would you turn to page 96. 96, line 31. Ready?

10 A Yes.

11 Q "Massino: Vinny is one thing. Vinny is, is not hungry for
12 money. He the only guy, the right thing. Right to his face,
13 he was giving me 5500 a month. Everybody ran away, ba-ba. How
14 did you think I feel? And I told him. I told him."

15 Now, are you saying here that Vinny Basciano had been
16 giving you \$5,500 a month, correct?

17 A Correct.

18 Q And everybody else had run away, right?

19 A Correct.

20 Q And by that you are saying everybody else wasn't coming up
21 with the amount of money, your money, that they were supposed
22 to be giving you, right?

23 A Right.

24 Q Only Vinny Basciano?

25 A That's correct.

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1 Q This is during the time that you are in jail, right?

2 A Correct.

3 Q And it's your experience usually when in jail, people --
4 your moneys will dry up because people figure, well, you are
5 not on the scene anymore; is that right?

6 A That's correct. They think you're finished.

7 Q Now, let's go to page 100, still in that same clip, I
8 believe, sir. Line 26. Basciano is speaking to you.

9 "Bo, I'm in here now. They told -- I told them who to
10 use. He told me that this Joey Gambina, he was high on them,
11 he liked them. And then word came back in to me he didn't
12 handle himself the right way. I don't -- I don't what that
13 means."

14 Now, this is Mr. Basciano speaking to you, correct?

15 A Correct.

16 Q And in line 26, Mr. Basciano says, "They told."

17 That "They," is it your understanding that that refers
18 to people out on the street?

19 A I got to take that Dominick, correct, Dominick Cicale.

20 Q I'm sorry?

21 A Dominick Cicale.

22 Q After Mr. Basciano starts with, "They told me," then
23 switches to, "I told them who to use." Do you see that?

24 A Yes, I do.

25 Q Then he goes back to he told that this Joey Gambina, he was

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1 high on him.

2 Is it your understanding that that "he" in that
3 sentence refers again to Dominick Cicale, a captain in the
4 Bonanno Family, correct?

5 MR. JASPER: Your Honor, I would like, if we could, to
6 now move to page 102, clip 19. And if we could have that
7 played, your Honor.

8 (Recording played.)

9 BY MR. JASPER:

10 Q Now, Mr. Massino, if you would go back to page 102, where
11 that clip began, at line 23, page 102.

12 A I got it, counselor.

13 Q Ready.

14 "Massino: Wait, youse were making, youse making,
15 youse make 16 guys? I don't know any of them, you know.

16 "Basciano: Yeah, but some of the guys was
17 straightened out when Joe C and Tony were home.

18 "Massino: Who?

19 "Basciano: Joe C and Tony were home. When we
20 straightened out these guys, too."

21 Now, is it your understanding there that what is being
22 referred to is that some of the people who were inducted into
23 the Bonanno Family were actually inducted by the prior panel,
24 Tony Green and Joe C?

25 A That's correct.

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1 Q They made guys, right?

2 A Correct.

3 Q Basciano here, your understanding, is that he only inducted
4 some of them, correct?

5 A Correct.

6 Q Not all of them, right?

7 A Correct.

8 Q Then on page 103, at line 1:

9 "Joey C and Tony were home when we straightened out
10 some of these guys.

11 "Massino: You are a hundred percent."

12 That's your response to Basciano, right?

13 A Correct.

14 MR. JASPER: Your Honor, that concludes the questions
15 regarding 405-T.

16 We will now be turning, your Honor, to 406-T.

17 THE COURT: You got it? It's right after 405-T. It's
18 the first page.

19 THE WITNESS: 406?

20 THE COURT: 406-T.

21 MR. JASPER: 406-T.

22 THE COURT: Got it.

23 THE WITNESS: Thank you.

24 THE COURT: All right.

25 MR. JASPER: If we could play clip 2, your Honor,

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1 which begins at page 6 of that exhibit.

2 (Recording played.)

3 BY MR. JASPER:

4 Q Now, sir, would you turn back to page 8. Page 8, line 9.
5 Ready?

6 A Yes.

7 Q "Massino: He says everybody's staying put and I got that
8 message last week. I told you that. Everybody's staying put
9 until they hear from me.

10 "Basciano: When I -- before I came?

11 "Massino: Now I have to get on the floor. I don't
12 know, this week, next week, I don't know, but I can't give a
13 message to my kid. F it."

14 Now, what you are referring there is everybody is
15 staying put, is that everybody you are referring to Michael and
16 the people following orders from him?

17 A I got to assume so. I don't know that for a fact.

18 Q Well, you are referring to everyone staying put. Who is
19 everyone?

20 A Michael Nose, Fat Anthony, I guess the other captains.

21 Q So Michael Nose and the captains are staying put until they
22 hear from Joe Massino, the official boss, right?

23 A Correct.

24 Q And then down on line 23, again:

25 "Massino: So I don't know what's going on. Michael

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Massino - Cross/Jasper

1 ain't moving. Michael is not moving until he hears from me.

2 Now this is three times Alfred said."

3 So this is again the same message you are receiving
4 three different times from Alfred Altadona, correct?

5 A He came to Alfred, the way I took it, he came to Alfred
6 three times, three different times.

7 Q Michael Nose came to Alfred three different times, it's
8 your understanding, to send a message to you, I'm not making a
9 move, I, being Michael Mancuso, right?

10 A That's my understanding.

11 Q Then, if we can turn to page 9, line 5. Ready?

12 "Massino: I wouldn't do that to you. It's just the
13 same thing. I felt slighted the other day when you told me
14 downstairs, you told me Joey Gam. Now, you tell me you, the --

15 "Basciano: I don't know, Bo.

16 "Massino: No, no, but downstairs you knew. You told
17 me that in there.

18 "Basciano: Because that's how I set it up.

19 "Massino: But now when you thought the world of the
20 guy, now Dominick is holding up on us so now."

21 Now, just to go back up to, "You felt slighted
22 downstairs," referring to downstairs in the codefendant
23 meeting?

24 A That's correct.

25 Q And what you are saying you feel slighted about is that

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Massino - Cross/Jasper

1 Mr. Basciano is -- it's your understanding that Mr. Basciano is
2 telling you now he is uncertain as to who was involved in the
3 Randy Pizzolo murder?

4 A Correct.

5 Q And at 12, when Basciano says, "That's because I set it
6 up," you don't know for a fact if Mr. Basciano set anything up,
7 correct?

8 A I'm only going by what he is telling me.

9 MR. JASPER: Your Honor, if you could move to the next
10 page, page 10. Clip 3, judge.

11 THE COURT: All right.

12 MR. JASPER: If we could have that played.

13 (Recording played.)

14 BY MR. JASPER:

15 Q Mr. Massino, if you would turn to page 12, line 4. Ready?

16 A Ready.

17 Q "Massino: I will be straight up with you, but you can't
18 tell me, yeah, this guy, he killed him, you.

19 "Bo, I'm not sure though, Joe."

20 MS. MERKL: Objection, your Honor.

21 THE COURT: I'm sorry?

22 MS. MERKL: I just want to make the record clear as to
23 who is speaking when. Mr. Jasper failed to read the
24 attribution.

25 THE COURT: Mr. Jasper, just repeat that segment for

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Massino - Cross/Jasper

1 us.

2 BY MR. JASPER:

3 Q "Basciano" --

4 MR. JASPER: I will start from before, your Honor.

5 THE COURT: Thank you.

6 Q "Massino: I will be straight up with you, but you can't
7 tell me, yeah, this guy, he killed him. Uh.

8 "Basciano: Bo, I'm not sure though, Joe.

9 "Massino: Yeah, but then you shouldn't have told me
10 that."

11 Now in this segment you are telling you -- you are
12 telling Mr. Basciano he shouldn't be telling you that somebody
13 killed somebody if he is not sure; is that correct?

14 A That's correct.

15 Q Then down at line 21:

16 "Basciano: My objective over here was for Joe
17 Massino, not for Vinny Basciano. I put everybody together as a
18 tough guy and told everybody that this is you. It's not me. I
19 made certain decisions over there to avoid all the BS of coming
20 back and forth in the can. And I had to make them in the
21 street.

22 I told everybody these decisions that I'm making
23 aren't set in stone. If Joe wants to change them, he changes
24 them. I'm doing this right now for the good of this borgata.
25 Everybody agreed. Michael said, Michael Nose said, Vinny, you

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Massino - Cross/Jasper

1 know what, I'm proud of you. He says you fell into the
2 position."

3 All there -- is it your understanding that
4 Mr. Basciano is saying you can change any decision that he has
5 made, correct?

6 A That's correct.

7 Q At page 13, line 22, ready?

8 "Basciano: No, the one message I sent after I spoke
9 to you were Joey Gambina and Louie Electric. That's it. No
10 other message, not one.

11 But I think Michael moved too fast after I got
12 pinched. He went to Dominick and he started asking Dominick
13 questions about what I had going on in street. Dominick caught
14 a delusion because I know they had an argument.

15 "Massino: Okay, okay.

16 "Basciano: Dominick caught a delusion.

17 "Massino: Okay."

18 So there, is it your understanding that Mr. Basciano
19 is saying the only message he sent out after he spoke to you
20 was to hold up on Joey Gambina and to bump up Louie Electric to
21 captain; is that correct?

22 A Doesn't say nothing about bumping anybody up.

23 Q Well, where it says, "The one message I sent after I spoke
24 to you where Joey Gambina and Louie Electric," do you see that?

25 A Yes, I do.

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Massino - Cross/Jasper

1 Q Is it your understanding that the message was to hold up on
2 Joey Gambina?

3 A That's supposed to be the message, correct.

4 Q And the message regarding Louie Electric is the message
5 there that he is to be a captain?

6 A Not on 22.

7 Q Do you know what the message about Louie Electric refers
8 to, Mr. Basciano talking to you?

9 A Supposed to send out a message to move him up to a captain.

10 Q Page 15, line 7. Prior to this conversation you are
11 telling Mr. Basciano that you are concerned that you may be
12 charged with the murder of Randy Pizzolo; is that correct?

13 A That's correct.

14 MS. MERKL: Clarification as to time frame, your
15 Honor.

16 THE COURT: All right.

17 BY MR. JASPER:

18 Q Earlier in this conversation --

19 MS. MERKL: You said prior.

20 Q Earlier in this conversation, did you express to
21 Mr. Basciano your concern that you might be charged with the
22 murder of Randy Pizzolo?

23 A There was going to be an indictment going to be falling
24 but -- and it could have been me. I don't know exactly.

25 Q Was that a real concern on your part?

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Massino - Cross/Jasper

1 A Not really.

2 Q It wasn't really at all, was it?

3 A That's correct.

4 Q That's more stroking you were doing with Mr. Basciano?

5 A Vice versa.

6 Q Just trying get him to talk, correct?

7 A Correct.

8 Q Because he didn't know what you knew, which was that you
9 were wearing a recording device; is that correct, sir?

10 A That's correct.

11 Q And in line 7 on page 15:

12 "Basciano: Randy was working 50 -- Randy with 50
13 other subs worked for me. What am I going to do if somebody
14 killed a guy. It's my fault. It's your fault. People get
15 killed every day. They want to blame everybody in the Bronx on
16 me."

17 Now, is it your understanding that Mr. Basciano is
18 saying that Randy Pizzolo worked as a subcontractor for
19 Mr. Basciano?

20 A That's what he said.

21 Q That's your understanding, right?

22 A Correct.

23 Q And your understanding that Randy worked for Mr. Basciano
24 in Mr. Basciano's construction business, correct?

25 A I don't know that.

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Massino - Cross/Jasper

1 Q But it's your understanding that Randy was a subcontractor?

2 A From what he said, correct.

3 MR. JASPER: Judge, if we could go to clip 4, which is
4 page 17, beginning, I believe at line 9.

5 (Recording played.)

6 BY MR. JASPER:

7 Q Mr. Massino, would you turn back to page 17, line 9.

8 "Basciano: Oh, listen to me, another thing with the
9 money, November, the first week of November, I sent 66,000 to
10 you. 66,000 went the first week of November. That was 5,000
11 from the cab stand. The 5,000 that was supposed to go to Joey
12 C."

13 Now, Mr. Basciano is telling you again about money
14 that he sent -- that he is sending to you, correct?

15 MS. MERKL: Objection to form.

16 THE COURT: Sustained.

17 MR. JASPER: Sorry.

18 BY MR. JASPER:

19 Q Your understanding is that Mr. Basciano is again referring
20 to money that he is sending to you, correct?

21 A That's correct.

22 Q And that's money that he sent to you by sending it to your
23 wife, Josephine, correct?

24 A Correct.

25 Q Now, turning to the next page, page 18, line 6:

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Massino - Cross/Jasper

1 "Massino: I was in. I was in jail. I know nothing.
2 I knew nothing about it. Everything now as far as on my
3 doorstep, everybody wants help from me. Where am I going to
4 get it? What am I going to do, sell my property?

5 Uh, that's another thing that come down, too. Vic
6 called my wife, Supreme Court. I told the lawyers yesterday
7 that they can't take my wife's -- said, did I tell you they
8 can't?

9 "Basciano: The house, yeah.

10 "Massino: Yeah.

11 "Basciano: That's a big thing for her.

12 "Massino: I don't know. She, uh."

13 Now, there, is that a reference to the house that you
14 and your wife live in in Howard Beach -- lived in?

15 MS. MERKL: Objection to tense.

16 THE COURT: Oh, sustained.

17 BY MR. JASPER:

18 Q Is that a reference to a house that you retained possession
19 of in Howard Beach?

20 A Correct.

21 Q And that was your residence?

22 A That's where I live, correct.

23 Q And Basciano says at line 18: "That's a big thing for
24 her."

25 And then you say, "I don't know. She, uh."

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Massino - Cross/Jasper

1 "Basciano: That's a big thing for her."

2 He is referring to the importance of your residence?

3 MS. MERKL: Objection to form.

4 THE COURT: Sustained.

5 BY MR. JASPER:

6 Q Is it your understanding that Mr. Basciano is referring to
7 the importance of your home?

8 A That's correct.

9 Q And your home was important to you, wasn't it, sir?

10 A Correct.

11 Q It was something that you negotiated with the government
12 that you retain possession of, right?

13 MS. MERKL: Objection to form. Compound.

14 THE COURT: Sustained.

15 A Correct.

16 THE COURT: No, no. Sustained means you don't answer.

17 THE WITNESS: I'm sorry, your Honor.

18 THE COURT: Go ahead.

19 BY MR. JASPER:

20 Q You have, I think you told us previously that you retained
21 possession of the home that you owned in Howard Beach.

22 Is that correct?

23 A Correct.

24 Q And you retained that as a result of negotiations with the
25 United States Attorney's office for the Eastern District of

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Massino - Cross/Jasper

1 New York, yes?

2 A I paid that forfeiture. I gave up property and I gave up
3 cash. I paid the 12 million forfeiture.

4 Q My question is: As a result of negotiations with the
5 United States Attorney's office for the Eastern District of
6 New York, you retained possession of the home that you owned
7 with your wife in Howard Beach, yes or no?

8 MS. MERKL: Objection, your Honor. Calls for
9 speculation, "As a result of."

10 THE COURT: You may answer that.

11 A Yes.

12 Q You also previously told us about the eight houses that you
13 retained possession of?

14 MS. MERKL: Objection. Misstates the record.

15 THE COURT: Sustained.

16 BY MR. JASPER:

17 Q Now, page 52 --

18 THE COURT: I'm sorry, page?

19 MR. JASPER: I'm sorry, your Honor. We have to go
20 to -- we have to go to clip 9, your Honor, which begins at
21 page 51.

22 THE COURT: All right.

23 MR. JASPER: Page 51, clip 9.

24 THE COURT: Do you want to play it?

25 MR. JASPER: Yes, your Honor. Thank you.

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1 THE COURT: All right.

2 (Recording played.)

3 BY MR. JASPER:

4 Q Now, Mr. Massino, would you turn to page 52, line 1.

5 "Basciano: In your name, in your name, not Vinny's
6 name, in your name. And I brought that to everybody. There is
7 nobody in the can over here. And I see a guy starting to talk
8 bitter. Listen to me, hang on a second, whether it be Petey
9 Rabbit or Patty."

10 Now, is it your understanding that what is being said
11 there is that bitter talk was about regarding you?

12 A Correct.

13 Q And that bitter talk centered around the fact that it's
14 your understanding that several of your top captains had
15 flipped and became cooperators, correct?

16 A Correct.

17 Q And there were people who were talking, it's your
18 understanding, about you in a poor light, right?

19 A Correct.

20 Q And it's your understanding that Vinny Basciano was
21 standing up for you, wasn't he?

22 A That's what he says, correct.

23 Q If you turn to page 55, at line 3:

24 "Massino: I think you made 16 twice since I'm in
25 jail.

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1 "Basciano: Well, I'm --

2 "Massino: Youse made nine. I think they made six or
3 seven."

4 Now, what you are referring there is that six or seven
5 guys were made wiseguys by the panel, the administration panel
6 that was in power in 2003, correct?

7 A Correct.

8 MR. JASPER: Now, your Honor --

9 THE COURT: Are we moving on to another segment?

10 MR. JASPER: We are, indeed, moving on to another
11 segment.

12 THE COURT: I think this would be a good time to have
13 our morning break.

14 All right. We will take ten minutes.

15 All rise for the jury.

16 (Jury exits.)

17 THE COURT: You may be seated. The witness may stand
18 down. Do not discuss your testimony with anyone.

19 We will take ten minutes. Thank you.

20 THE WITNESS: Thank you, your Honor.

21 (Mr. Massino left the courtroom.)

22 (Recess.)

23 THE COURT: All right. Let's bring in the defendant.

24 (Defendant present.)

25 (Mr. Massino resumed the stand.)

Massino - Cross/Jasper

1 THE COURT: All right. Let's bring in the jury,
2 please.

3 (Jury enters.)

4 THE COURT: Please be seated. All right.

5 Mr. Jasper, you may continue your cross-examination of
6 the witness. The witness is reminded that he is still under
7 oath.

8 MR. JASPER: Thank you, your Honor.

9 THE WITNESS: Thank you, your Honor.

10 CROSS-EXAMINATION

11 BY MR. JASPER:

12 Q Now, Mr. Massino, we are going to be going to clip 10,
13 page 61. But before that clip is played, I want to direct your
14 attention to page 67 of clip 10, and I direct your attention to
15 line 21.

16 Ready? I just want to --

17 A Page 67?

18 Q Page 67.

19 A Line 21?

20 Q Line 21.

21 And when the clip is played, I would like you to focus
22 especially on line 22, which is an attribution to Mr. Basciano.
23 Where it says here on the transcript "or something" I ask you
24 to listen to see whether or not you hear the words "forta
25 famiglia," where "or something" occurs.

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1 Do you see that?

2 A Yes.

3 Q And then down to line 30, again, of page 67, where the
4 government transcript has:

5 "Basciano: Absolutely. Perry, listen to me. I've
6 got a million dollars from Perry."

7 I want you to focus on the word "from," and I will ask
8 you whether or not the words on the tape actually is "on
9 Perry." So I just direct those two areas to you.

10 MR. JASPER: Your Honor, having said that, I would ask
11 that clip 10 be played, starting at page 61.

12 (Recording played.)

13 BY MR. JASPER:

14 Q Now, Mr. Massino, I would like you to go back to page 67.
15 Ready?

16 A Go ahead, counselor.

17 Q Now, before I ask you about those selections that I had
18 alerted to you before the clip was played, I want to ask you
19 this: You reviewed these tapes, correct?

20 A Correct.

21 Q I mean you reviewed the tapes and you reviewed the
22 transcripts, correct?

23 A Correct.

24 Q And the transcripts were typed up by -- they weren't typed
25 up by you, right?

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1 A That's correct.

2 Q And the transcripts were typed up by somebody connected to
3 the government?

4 MS. MERKL: Objection.

5 THE COURT: Sustained.

6 Q Well, the transcripts were presented for your review,
7 correct?

8 A Correct.

9 Q And would it be fair to say that someone connected with the
10 government handed you the transcript to review?

11 A Correct.

12 Q And you reviewed it, right?

13 A Correct.

14 Q And you reviewed these transcripts several times, correct?

15 A Correct.

16 Q And in order to make sure that they were accurate, right?

17 A Correct.

18 Q And it was your understanding that they were going to be
19 played in court, right?

20 MS. MERKL: Objection, your Honor.

21 THE COURT: Sustained.

22 Q Now, directing your attention to line 21, where it says,
23 "Massino: Throw him out of the family," you are referring to
24 Gino Galestro?

25 A Correct.

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1 Q And line 22, where the transcript says "or something," did
2 you hear the words "forta famiglia"?

3 A Yes, I did.

4 Q That means throw him out of the family?

5 A Correct.

6 Q So that "or something" is inaccurate?

7 A Correct.

8 Q Down to line 30: "Basciano: Absolutely. Perry, listen to
9 me, I've got a million dollars from Perry."

10 That's what it says on the transcript, correct?

11 A Correct.

12 Q Did you actually hear "I've got a million dollars on
13 Perry"?

14 A I believe so.

15 Q Now, earlier in that conversation on January 7,
16 Mr. Basciano said to you that he had given Randy Pizzolo a
17 hundred chances.

18 Do you recall that?

19 A Yes.

20 Q Do you know if Mr. Basciano in fact gave Randy Pizzolo a
21 hundred chances?

22 A No, I don't.

23 Q And the first conversation in 405-T occurred on January 3,
24 correct?

25 A Correct.

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Massino - Cross/Jasper

1 Q And the second recorded conversation took place on
2 January 7, correct?

3 A Correct.

4 Q Now, did you have a meeting with agents on January 6?

5 A I don't recall.

6 Q Is it possible that you had a meeting on January 6 with
7 them?

8 A It's possible.

9 Q And was that actually an interview?

10 A I don't recall.

11 MR. JASPER: Your Honor, could I approach and show the
12 witness what's been marked as 3500-JM-130?

13 MS. MERKL: Your Honor, I object.

14 MR. JASPER: To refresh his recollection, your Honor,
15 only.

16 MS. MERKL: Your Honor, I object.

17 THE COURT: What's the objection?

18 MS. MERKL: The witness has not indicated his
19 recollection needs to be refreshed.

20 THE COURT: Overruled.

21 You may show it to him.

22 MS. MERKL: Your Honor, I also have an objection to
23 the document itself.

24 THE COURT: I'm sorry. What number is that? Just
25 tell me the number. 3500-JM what?

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Massino - Cross/Jasper

1 MR. GOLTZER: The judge asked you a question, what
2 number.

3 MR. JASPER: I'm sorry. It's 3500-JM-130, your Honor.

4 THE COURT: 130. Just a minute.

5 MR. JASPER: Your Honor, may I have a moment with the
6 government?

7 THE COURT: Yes, you may.

8 (Pause.)

9 MR. JASPER: Your Honor, I'm showing Mr. Massino
10 Government's 3500-JM-130.

11 THE COURT: And the purpose of which is to do what?

12 MR. JASPER: To refresh his recollection. He said he
13 may have spoken to agents, I believe, on January 6.

14 THE COURT: You can show it to him.

15 All right. Have you finished reading it?

16 THE WITNESS: Yes, your Honor.

17 THE COURT: All right. You can go back or you can
18 take it back.

19 MR. JASPER: Well, just hold onto that for one second.

20 THE WITNESS: All right.

21 THE COURT: No, no. I want you to take it back.

22 MR. JASPER: I'm sorry, your Honor. I didn't
23 understand. Sorry.

24 BY MR. JASPER:

25 Q Mr. Massino, having read 3500-JM-130, does that refresh

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1 your recollection?

2 A Now it does.

3 Q Did you have a meeting with agents on January 6, 2005?

4 A Yes, I did.

5 Q Did you discuss with those agents an unrecorded meeting
6 that you had with Mr. Basciano on January 4, 2005?

7 A Yes, I did.

8 Q Now, Mr. Massino, you have told us that you are serving two
9 consecutive life sentences, correct?

10 A That's correct.

11 Q And that you were arrested on January 9, 2003, right?

12 A Correct.

13 Q And back in January 9, 2003 you were 60 years old?

14 A Correct.

15 Q You are 68 now, sir?

16 A That's correct.

17 Q You have been convicted of seven murders, right?

18 A Correct.

19 Q And you pled guilty to the murder of Georgie Sciascia,
20 George from Canada, correct?

21 A Correct.

22 Q You have told us that your rental properties produce
23 \$260,000 a year in income?

24 MS. MERKL: Objection, asked and answered.

25 THE COURT: Sustained.

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Massino - Cross/Jasper

1 Q You told us, sir, earlier in the examination, that one of
2 the reasons you were testifying was that you were looking for
3 light at the end of the tunnel?

4 MS. MERKL: Objection. Asked and answered.

5 THE COURT: You may answer.

6 A Yes.

7 Q That light is the light of freedom, sir, correct?

8 A Correct.

9 Q And it is your hope that you will receive -- your hope that
10 you will receive a sentence of time served?

11 MS. MERKL: Asked and answered, your Honor.

12 THE COURT: Well, you may answer.

13 A I'm looking for light at the end of the tunnel, I'm hoping
14 for.

15 Q At 68 years old, the strongest light that you could see
16 would be to walk out of court after you are sentenced, correct?

17 A I am sentenced.

18 Q After your resentence, if it happens, correct?

19 A Correct.

20 Q And if the light at the end of the tunnel that you spoke
21 about does not occur, you will die in prison, correct?

22 MS. MERKL: Objection.

23 THE COURT: What's the objection?

24 MS. MERKL: Hypothetical.

25 THE COURT: Sustained.

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Massino - Redirect/Merkl

1 BY MR. JASPER:

2 Q You would like to be able to live as a free man before you
3 die; is that correct, sir?

4 MS. MERKL: Asked and answered, your Honor.

5 THE COURT: Sustained.

6 MR. JASPER: No further questions at this time.

7 THE COURT: Very well.

8 Redirect?

9 MS. MERKL: Yes, your Honor.

10 REDIRECT EXAMINATION

11 BY MS. MERKL:

12 Q Mr. Massino, during cross-examination defense counsel asked
13 you a number of questions regarding Basciano making himself the
14 acting boss of the Bonanno Crime Family.

15 Do you remember those questions?

16 A That's correct, Ms. Merkl.

17 Q I would like to direct your attention please to Government
18 Exhibit 405-T, the transcript of the January 3, 2005 recording.
19 If you could, please turn to page 15. I would like to play a
20 short clip starting at line 31. Start time is 37:09.

21 (Recording played.)

22 MS. MERKL: Pardon me, your Honor. We seem to be
23 having a technical problem.

24 THE COURT: Sure.

25 MS. MERKL: Your Honor, I apologize. We seem to be

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Massino - Redirect/Merkl

1 having a technical problem.

2 Q Mr. Massino, if I could just direct you to the text of the
3 transcript.

4 A Excuse me, Ms. Merkl?

5 Q If I could just direct you to the text of the transcript on
6 page 16, the top of page 16. If I could direct your attention
7 to lines 1 through 3.

8 Do you recall Basciano stating on the recording that
9 what I did by me taking the reigns, I anointed myself through
10 you as acting boss?

11 A Correct.

12 Q Mr. Massino, during cross-examination last week defense
13 counsel also asked you a number of questions regarding hiring a
14 different lawyer for purposes of cooperation.

15 Do you remember those questions?

16 A Yes, I do.

17 Q Why did you have a different lawyer, sir?

18 A I didn't trust the lawyer that I had.

19 Q What do you mean by that?

20 A I didn't trust that I could tell people that I was
21 cooperating. I wasn't confident with him.

22 (Continued on the next page.)

23

24

25

Massino - Redirect/Merkl

1 REDIRECT EXAMINATION (Cont'd)

2 BY MR. MERKL:

3 Q Did you have a concern about it being become known about
4 you exploring the possibility of cooperation with the
5 government?

6 A Concerned, yes.

7 Q What was your concern?

8 A My --

9 MR. JASPER: Objection, your Honor.

10 THE COURT: Objection?

11 MR. JASPER: I'm sorry, your Honor. Objection.

12 THE COURT: Overruled. You can answer.

13 BY MS. MERKL: :

14 Q What was your concern, sir?

15 A I didn't want it to get out.

16 Q Why?

17 A I just didn't want it to get out.

18 Q What was the rule in organized crime regarding cooperation?

19 MR. JASPER: Objection, your Honor.

20 THE COURT: Sustained. Sustained. Foundation.

21 Q Mr. Massino, in your experience as boss of the crime
22 family, did you become aware of what could happen to persons
23 who were suspected of cooperating with the government?

24 A Yes.

25 Q What did you learn?

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Massino - Redirect/Merkl

1 A You can get murdered.

2 Q And at the time you began cooperating, you did not trust
3 your attorneys?

4 A No, not at all.

5 Q If I could now direct your attention, sir, to some
6 questions you were asked on cross-examination regarding the
7 murder of George from Canada.

8 Do you remember being asked a number of questions
9 about that?

10 A Yes, I do.

11 Q Why did you order George from Canada to be killed?

12 A You can't kill a wiseguy's son without getting permission
13 from me.

14 Q As boss --

15 A That's why he died.

16 Q As boss of the Bonanno crime family, did you become aware
17 of unauthorized murders?

18 A Yes, I did.

19 Q Did you order -- in each and every instance in which you
20 became aware of an unauthorized murder, did you order the
21 murderer to be killed?

22 A No, not all the time.

23 Q In fact, while you were boss, you ordered one murder, isn't
24 that correct?

25 A That's correct. George.

Massino - Redirect/Merkl

1 MR. JASPER: Objection, your Honor.

2 THE COURT: Objection?

3 MR. JASPER: Foundation. Time frame.

4 THE COURT: Yes. Let's --

5 MS. MERKL: Your Honor, I said while he was boss.

6 Q So, between the time period you became the official boss --

7 A '91 through 2003.

8 Q -- you ordered one murder?

9 A One murder.

10 Q And the reason for the murder was?

11 A Because he killed a wiseguy's son in the Bonanno family.

12 Q During cross-examination, you were also asked a number of
13 questions about your 1975 case in which you were charged with
14 stealing a truck.

15 Do you remember those questions?

16 A Yes, I do.

17 Q You testified both on direct and on cross-examination that
18 you lied during a hearing to have that case dismissed, correct?

19 A Correct.

20 Q Did you disclose that lie to the government as part of your
21 cooperation?

22 A Yes, I did.

23 Q That was one of the crimes you admitted to to the
24 government?

25 A Yes.

Massino - Redirect/Merkl

1 Q You also disclosed the destruction of those fingerprints to
2 the government?

3 A Yes.

4 Q Something you told the government about during your proffer
5 sessions?

6 A Yes.

7 Q If I could now direct your attention to forfeiture. You
8 may recall being asked a number of questions both last week and
9 today regarding your forfeiture.

10 Do you recall those questions?

11 A Yes, I do.

12 Q In connection with your trial in 2004, who decided how much
13 you were to pay in forfeiture, sir?

14 A The forfeiture department.

15 Q Was that present -- did the forfeiture department present
16 evidence to your jury?

17 A Yes.

18 Q And ultimately, was -- did the jury reach a verdict?

19 A Yes.

20 MR. JASPER: Objection, your Honor.

21 THE COURT: Sustained.

22 Q Sir, after your trial, did you pay the forfeiture verdict
23 returned by your jury?

24 MR. JASPER: Objection, your Honor.

25 THE COURT: Sustained.

Massino - Redirect/Merkl

1 Q The forfeiture amount that you paid, do you know how it was
2 derived at?

3 MR. JASPER: Objection, Judge.

4 THE COURT: You may answer.

5 A The forfeiture department, the prosecutor.

6 Q And in connection with your forfeiture, was evidence
7 presented at your trial?

8 A Correct.

9 Q And during your life, did you have both legitimate sources
10 of income and illegitimate sources of income?

11 A I had both, correct.

12 Q What is your understanding with regard to whether you are
13 required to pay forfeiture with regard to properties and monies
14 earned legitimately?

15 MR. JASPER: Objection, your Honor.

16 THE COURT: Sustained.

17 Q Do you have an understanding of whether or not you were
18 required to forfeiture on illegal earnings or legal earnings?

19 MR. JASPER: Objection, Judge.

20 THE COURT: You may answer.

21 A I just had to pay forfeiture.

22 Q And you paid your forfeiture judgment in full, sir?

23 A Yes, I did.

24 MR. JASPER: Objection to "in full."

25 THE COURT: Do you want to lay a foundation on that?

Massino - Redirect/Merkl

1 Q Sir, after you were convicted in your 2004 trial, was a
2 forfeiture judgment entered against you?

3 A Yes, it was.

4 Q Did you pay that judgment in full?

5 A Yes, I did.

6 Q I'd also like to direct your attention to questions, again
7 questions regarding unsanctioned murder.

8 Prior to killing Randy Pizzolo, did you ever discuss
9 with Basciano the murder of Frank Santoro?

10 MR. JASPER: Objection, Judge.

11 A Yes, I did.

12 THE COURT: No. I'm sorry. That's sustained.

13 MR. JASPER: Beyond the scope, your Honor.

14 THE COURT: Yes. That's sustained.

15 The jury will ignore the answer.

16 BY MS. MERKL: :

17 Q Mr. Massino, prior to your conversation with Mr. Basciano,
18 did you ever discuss with Basciano -- prior to your tape
19 recorded conversations with Mr. Basciano, did you ever discuss
20 with Basciano the murder of Frank Santoro?

21 MR. JASPER: Objection, your Honor.

22 THE COURT: Sustained.

23 Q Mr. Massino, have you ever had a conversation with Basciano
24 regarding an unauthorized murder?

25 MR. JASPER: Objection, Judge.

Massino - Redirect/Merkl

1 MS. MERKL: Your Honor, this --

2 THE COURT: No, that was on cross.

3 You may answer that.

4 A Yes.

5 Q Who did you discuss with Basciano that he had killed in an
6 unauthorized manner?

7 MR. JASPER: Objection, Judge.

8 THE COURT: Sustained.

9 Q What was the substance of that conversation with Basciano
10 regarding the unauthorized murder?

11 MR. JASPER: Your Honor, I object.

12 THE COURT: Let's have a sidebar.

13 (Continued on next page.)
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Sidebar

1 (Sidebar.)

2 THE COURT: Tell me your objection.

3 MR. JASPER: First of all, I didn't ask one question
4 about Frank Santoro.

5 THE COURT: About what?

6 MR. JASPER: I didn't ask one question about Frank
7 Santoro, so this line, to get it in, is beyond the scope,
8 number one.

9 Number two, Massino testified that Patty had okayed
10 that murder, so this is totally improper and beyond the scope
11 for the reason, as well.

12 MS. MERKL: Your Honor, Mr. Jasper asked the witness
13 countless questions about unsanctioned murder. Mr. Goltzer
14 opened on the theory that the conversations with Mr. Massino,
15 that Mr. Basciano had were in an effort to protect Mr. Cicale
16 from Mr. Massino in the event that Mr. Massino viewed the
17 murder of Randy Pizzolo as unauthorized.

18 The fact that Patty Defilippo may have given his
19 backing to Basciano, or at least told Basciano, Mr. Massino,
20 that he had given his backing, regardless of whether that's
21 true -- we don't even know that, we just know Mr. Massino
22 knows -- the question as to whether or not Mr., Mr. Basciano
23 understood the penalty for unauthorized murder is absolutely
24 within the scope of Mr. Jasper's cross.

25 He asked several questions. He tried to, he tried to

Sidebar

1 suggest to this jury that the entire reason George from Canada
2 was killed was because the murder was unsanctioned by
3 Mr. Massino.

4 The murder of Frank's kid, and the, asking him
5 questions about conversations about unauthorized murder, it's
6 not in the testimony of Frank Santoro. It's in regards to
7 Mr. Basciano's state of mind in the conversation with
8 Mr. Massino and the murder of Frank Santoro from Mr. Massino's
9 unauthorized.

10 Patty Defilippo does not have the authority to
11 authorize it.

12 MR. JASPER: Judge, Patty Defilippo gave the okay.

13 I didn't get into anything about exactly what motives
14 with this witness regarding Basciano's state of mind. It's
15 totally improper.

16 They're trying to get this info, for whatever reason I
17 don't know, but it's not to help Mr. Basciano, that's for sure.
18 It's beyond the scope and it's inaccurate.

19 MS. MERKL: It's not beyond the scope, and it's not
20 inaccurate, your Honor.

21 Mr. Basciano knew full well when he was having these
22 conversations with Mr. Massino, Mr. Massino had not authorized
23 the murder of Frank Santoro, and there was no need for him to
24 try to cover up for Cicale under those circumstances.

25 As a captain and later as acting boss, Mr. Basciano

Sidebar

1 would know that a captain cannot authorize a murder.

2 MR. JASPER: No, your Honor. They argued last week it
3 was sanctioned.

4 MS. MERKL: We did not argue it was sanctioned.

5 MR. JASPER: This is totally improper, Judge.

6 What they want to do is mix up apples and oranges so
7 that they can move Santoro in at this particular point in time.
8 There was no, the suggestion wasn't that George Sciascia's was
9 unsanctioned. I was getting at the reason they killed him.

10 They can laugh all they want. I object.

11 MS. MERKL: Your Honor, the reason -- Mr. Jasper asked
12 at least three or four times, I'm happy to get transcript
13 references that would aid the Court -- but the reason that
14 Georgie from Canada was killed was because it was unauthorized.

15 MR. GOLTZER: That's not accurate. The reason he was
16 killed was he had to die for killing a wiseguy's son.

17 MS. MERKL: That is accurate.

18 MR. GOLTZER: And that's a policy that Massino
19 testified was unshakeable, killing the wiseguy's son had
20 nothing to do with the sanction.

21 MS. MERKL: Mr. Jasper asked Mr. Massino several
22 questions in a row regarding whether it was unauthorized, and
23 at one point, in response to a question, Mr. Massino said that
24 was part of it.

25 And we want to make it clear that it's not every time

Sidebar

1 that an unsanctioned murder happens, that the death penalty is
2 automatic, and we certainly think it is highly relevant to this
3 case Mr. Basciano knows that.

4 They opened the door, your Honor, with regard to all
5 those questions about George from Canada, and we can get the
6 transcript pages if that would be of assistance.

7 THE COURT: All right. Thanks.

8 (End of sidebar.)

9 (Continued on next page.)
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Massino - Redirect/Merkl

1 (In open court.)

2 THE COURT: All right. The objection is overruled.

3 You may ask your question.

4 REDIRECT EXAMINATION (CONT'D)

5 BY MS. MERKL:

6 Q Just to reorient you, Mr. Massino, prior to your tape
7 recorded conversations with Mr. Basciano, did you have a
8 conversation with Mr. Basciano about a murder that he committed
9 that he, that you had not authorized?

10 A That's correct.

11 Q What murder was that, sir?

12 A Frank Santoro.

13 Q Did you order Basciano killed as a consequence of
14 committing that murder?

15 A No, I didn't.

16 Q I'd also like to ask you about your cooperation agreement,
17 just a few questions, sir.

18 Mr. Goltzer asked you a number of questions regarding
19 whether or not you had been called to testify prior to this
20 case. Do you remember those questions?

21 A Yes, I do.

22 Q Prior to starting to prepare your testimony in this case,
23 did you meet with a number of different prosecutors?

24 A Yes, I did.

25 Q Have you been prepared to testify in additional trials?

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Massino - Redirect/Merkl

1 A Yes.

2 Q During the course of your cooperation, the government asked
3 you about few people that you had committed crimes with or
4 every one you know?

5 A Every one I know.

6 Q Do you have any idea how many individuals you've provided
7 information about during the course of your cooperation?

8 MR. JASPER: Objection, your Honor.

9 THE COURT: You may answer.

10 A A lot of people.

11 Q Have you provided information regarding individuals from
12 all five New York City organized crime families?

13 A Yes, I have.

14 Q Is it possible that you may be required to testify in the
15 future?

16 MR. JASPER: Objection to possible.

17 THE COURT: Sustained. Sustained.

18 Q Mr. Massino, as you sit here today, do you know whether the
19 government is going to file a Rule 35 motion in your case?

20 A I don't know that.

21 Q Is it in your interest, sir, to tell the truth or to lie
22 during your testimony?

23 MR. JASPER: Objection, Judge.

24 THE COURT: Sustained as to form.

25 Q As part of your cooperation agreement with the government,

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Massino - Redirect/Merkl

1 are you required to tell the government about all of your
2 criminal activity?

3 A Everything that I did in life.

4 Q Under the terms of your cooperation agreement, what is your
5 understanding of what is in your best interests?

6 A Not --

7 Q To lie or tell the truth?

8 A Excuse me. To tell the truth.

9 Q What is your understanding as to what will be included in
10 your Rule 35 motion if one is ever filed?

11 A Hopefully see some light at the end of the tunnel.

12 Q But do you have an understanding of what information would
13 actually be included in your letter?

14 A No, I don't.

15 Q Do you have an understanding of whether the judge can take
16 all of your criminal conduct into consideration when
17 determining whether or not to resentence you?

18 MR. JASPER: Objection, your Honor.

19 THE COURT: Overruled.

20 A Yes.

21 Q What is that understanding?

22 A He can take everything into consideration.

23 Q Everything? All the crimes you've committed?

24 A Everything.

25 Q And the cooperation that you offered?

Massino - Redirect/Merkl

1 A Everything, yes.

2 Q During cross-examination, you were asked a number of
3 questions regarding the tensions in the Bonanno crime family.

4 Do you remember those questions?

5 A Yes, I do.

6 Q The tensions that you spoke about during these recordings
7 made in January of 2005, those tensions existed as of that
8 time, January 2005?

9 A That's correct.

10 Q Mr. Massino, during cross-examination, you were asked a
11 number of questions about different murders. And specifically,
12 cross-examination today, you were asked a question about how
13 Basciano should not tell you about someone's involvement in the
14 murder if he wasn't sure about that information.

15 Do you remember that question?

16 MR. JASPER: Object to the form, your Honor.

17 THE COURT: You may answer.

18 A Correct.

19 Q What is the penalty in organized crime with regard to lying
20 to a boss about a murder?

21 A You could get killed for that.

22 Q In your years of experience as the underboss and the boss
23 in the Bonanno crime family, did you ever learn somebody had
24 personally told you that they did a murder that they did not
25 do?

Massino - Recross/Jasper

1 A No.

2 MR. JASPER: Objection, your Honor.

3 THE COURT: Overruled.

4 MS. MERKL: I have nothing further, your Honor.

5 THE COURT: Recross?

6 RECROSS-EXAMINATION

7 BY MR. JASPER:

8 Q Mr. Massino, you were asked if you had anybody tell you
9 about a murder in organized crime that they had not done,
10 correct?

11 A Yes, I did say that, but there was one time.

12 Q What was that one time, sir?

13 A I had a meeting with John Gotti, Jr. and he wanted to know
14 what, what my position was with the Colombo war, and I said I
15 recognized Junior Persico as the boss.

16 He said you would never go against my father and I
17 grabbed his arm. He said that's if your father is right.

18 With that, he says Bonnie and Clyde won't be robbing
19 any more clubs. My brother-in-law said, yeah, we killed them.

20 With this, I kicked my brother-in-law. John, Jr.
21 says, no, we killed him.

22 With that, Sal goes and sees Patty Defilippo, which is
23 a captain in the Bonanno family, and they want to kill Anthony
24 Donato.

25 I give him an okay to kill him. We give him a gun. A

Massino - Recross/Jasper

1 couple of weeks go by. They can't find Anthony Donato. I said
2 something stinks here. I'm giving the kid a pass. I called
3 the murder off.

4 Q So somebody had lied about committing a murder, correct?

5 A That's correct.

6 Q So it does happen in organized crime, right?

7 A Yes, it does.

8 Q And you are also aware of a situation where Nicky Santoro
9 lied about being at the three captains' murder, also, correct?

10 A That's correct.

11 Q And Nicky Santoro lied about being there and shooting Big
12 Trin, correct?

13 A No. He didn't say he shot Big Trin. He said Booby shot
14 Big Trinny.

15 Q But was Nicky Santoro present at the three captains'
16 murder?

17 A No, he wasn't.

18 Q You were there, right?

19 A Yes, I was.

20 Q And so you know Nicky Santoro was not, right?

21 A That's correct.

22 Q What Nicky Santoro said was a lie, correct?

23 A That's correct.

24 Q In that vein, talking about lying to official bosses, you
25 lied to Rusty Rastelli about your participation in a murder,

Massino - Recross/Jasper

1 didn't you?

2 A That's correct.

3 Q And who was that that was murdered?

4 A Tommy Zumo. 1968.

5 Q And Rusty Rastelli came to you when you were just a young
6 wannabe and said if I find out whoever was involved with, with
7 Tommy Zumo, I'm going to kill him, right?

8 MS. MERKL: Objection to form. Compound.

9 THE COURT: Yes. Sustained.

10 Q You lied yourself to an official boss about being involved
11 in a murder? Yes or no.

12 MS. MERKL: Objection. Misstates the record as to
13 timing.

14 THE COURT: Sustained.

15 Q Did you lie to Rusty Rastelli?

16 A Yes, I did.

17 Q When did you lie to Rusty Rastelli?

18 A 1972, '73.

19 Q What did you lie to Rusty Rastelli about?

20 A He asked me if I knew anything about Tommy Zumo. I said
21 no, because he says when I find out, I've got approval from the
22 commission, I'm going to kill him. I just looked at him.

23 Q And did you know at that time Tommy Zumo?

24 A Yes, I did.

25 Q And you knew him very well?

Massino - Redirect/Merkl

1 A Yes, I did.

2 Q And you lied to Rusty?

3 A Yes, I did.

4 Q You told us that the prosecutor's forfeiture department
5 determined how much money was to be forfeited, correct?

6 A Correct.

7 Q They also determined what houses and properties you were to
8 keep as well, right?

9 MS. MERKL: Objection, your Honor.

10 THE COURT: Sustained.

11 Q You told us that Patty gave an okay to Mr. Basciano to
12 murder Frank Santoro, is that correct?

13 A That's correct.

14 Q And I think you told us that Frank Santoro was someone who
15 wanted to kidnap one of Mr. Basciano's sons, sir?

16 A That's correct.

17 MR. JASPER: No further questions, your Honor.

18 THE COURT: Anything else?

19 MS. MERKL: Just very briefly, your Honor.

20 REDIRECT EXAMINATION

21 BY MS. MERKL:

22 Q In regard to the Bonnie and Clyde situation that Mr. Jasper
23 just asked you about, have you ever spoken with Anthony Donato
24 personally about that?

25 A No, I never did.

Massino - Redirect/Merkl

1 Q Did Anthony Donato personally tell you he was involved?

2 A Excuse me?

3 Q Did Anthony Donato personally tell you that he was involved
4 in those murders?

5 A Never spoke to him about murder.

6 Q Mr. Jasper also asked you a question about lying to Phil
7 Rastelli.

8 Do you remember those questions?

9 A Yes, I do.

10 Q Were you an associate --

11 A I was an associate --

12 Q -- of Mr. Rastelli's at the time?

13 A Excuse me.

14 I was an associate.

15 Q At the time you had that conversation?

16 A No, I was nobody.

17 I take that back. I wasn't an associate.

18 Q So when you --

19 A I was by myself.

20 Q The conversations that you had with Mr. Rastelli, was that
21 the first time you met him?

22 A That's the first time I met him.

23 MS. MERKL: Nothing further, your Honor.

24 THE COURT: Anything else?

25 MR. JASPER: Just very briefly, your Honor.

Massino - Recross/Jasper

1 RECROSS-EXAMINATION

2 BY MR. JASPER:

3 Q You knew who Rusty Rastelli was, right?

4 A Yes, I did.

5 Q And you knew that you could have been killed for lying to
6 him, despite the fact that you --

7 MS. MERKL: Objection, your Honor. Calls for
8 speculation.

9 THE COURT: Sustained.

10 Q Were you concerned yourself, in your mind, Joe Massino,
11 whether or not you might have a problem with this lie that you
12 told Rusty Rastelli?

13 MS. MERKL: Objection. Relevance.

14 THE COURT: You may answer.

15 A When he told me that? Sure I was.

16 Q It was a big concern, right?

17 A Yeah.

18 MR. JASPER: No further questions, Judge.

19 THE COURT: Anything else?

20 MS. MERKL: No, your Honor.

21 THE COURT: All right.

22 At this moment, we'll take a two-minute break.

23 All rise for the jury.

24 (Jury exits at 12:10 p.m.)

25 THE COURT: Remain standing. Everyone else may remain

USA v. Basciano

1 seated.

2 (The witness exits.)

3 THE COURT: All right. The witness is excused.

4 You may stand down.

5 THE WITNESS: Thank you, your Honor.

6 THE COURT: You're welcome.

7 (Witness excused.)

8 THE COURT: All right. Who is your next witness?

9 MS. MERKL: Your Honor, we have a few different law
10 enforcement witnesses --

11 THE COURT: All right.

12 MS. MERKL: -- starting with William Andrew, moving
13 through a few of them quickly before lunch.

14 THE COURT: Okay. We're ready for the jury when the
15 jury is ready for us.

16 Are we done with the audio recordings for now?

17 MS. MERKL: We are, but we will be using the ELMO, I
18 think.

19 THE COURT: ELMO?

20 MS. MERKL: Yes.

21 THE COURT: But you have to open the ELMO to use the
22 ELMO.

23 MS. MERKL: This is interesting.

24 THE COURT: You just have to turn the camera.

25 MS. MERKL: How very interesting.

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1 THE COURT: That's it.

2 MS. MERKL: We're going to read a couple of
3 stipulations first.

4 THE COURT: All right.

5 (Pause in the proceedings.)

6 (Jury in at 12:15 p.m.)

7 THE COURT: Please be seated.

8 The government may call its next witness.

9 MS. MERKL: At this time we plan to read two
10 stipulations.

11 THE COURT: All right.

12 MS. MERKL: Starting with Government Exhibit 137, your
13 Honor.

14 We would offer that stipulation into evidence.

15 THE COURT: All right. Any objection?

16 MR. GOLTZER: No.

17 THE COURT: All right. Government Exhibit 137.

18 (Government's Exhibit No. 137 so marked.)

19 MS. MERKL: Permission to publish to the jury, your
20 Honor?

21 THE COURT: Yes, you may.

22 (Exhibit published to the jury.)

23 MS. MERKL: It is hereby stipulated and agreed by and
24 among the parties that:

25 One, Government Exhibit 100 consists of a note that

USA v. Basciano

1 was written by the defendant, Vincent Basciano, and given by
2 Basciano to Joseph Massino in January of 2005.

3 Paragraph two. This stipulation in Government
4 Exhibit 100 is admissible as evidence at the trial of the
5 above-captioned case dated April 11, 2001.

6 THE COURT: All right. Government Exhibit 100 is
7 received in evidence.

8 MS. MERKL: Your Honor, I believe that was received
9 prior.

10 THE COURT: All right.

11 MS. MERKL: I'm now going to offer Exhibit 138 into
12 evidence. It's another stipulation.

13 MR. GOLTZER: No objection.

14 THE COURT: All right. Government Exhibit 138 is
15 received in evidence and may be published.

16 (Government's Exhibit No. 138 so marked.)

17 (Exhibit published to the jury.)

18 MS. MERKL: It is hereby stipulated and agreed by and
19 among the parties that:

20 One, on November 23, 2004, defendant, Vincent
21 Basciano, appeared in person before the Honorable Nicholas G.
22 Garaufis, United States District Judge, in the Eastern District
23 of New York along with the following individuals, among others:
24 Patrick Defilippo, Anthony Donato, Joseph Massino and John
25 Joseph Spirito.

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Official Court Reporter

Andrew - Direct/Merkl

1 Paragraph two. This stipulation is admissible as
2 evidence in the trial of the above-captioned case.

3 Dated April 11, 2011.

4 THE COURT: Very well.

5 MS. MERKL: The next thing, your Honor, is the
6 government calls William Andrew.

7 THE CLERK: Sir, please raise your right-hand.

8 W-I-L-L-I-A-M A-N-D-R-E-W, having been first duly sworn,
9 was examined and testified as follows:

10 THE CLERK: Please have a seat. And please state and
11 spell your full name for the record.

12 THE WITNESS: My name is William Andrew,
13 W-I-L-L-I-A-M, Andrew, A-N-D-R-E-W.

14 THE COURT: You may inquire.

15 DIRECT EXAMINATION

16 BY MS. MERKL:

17 Q Good afternoon, sir.

18 A Good afternoon.

19 Q Are you presently employed?

20 A Yes, I am.

21 Q What do you do for work?

22 A I'm a contractor for the FBI working at the terrorist
23 screening center.

24 Q And you say you're a contractor. Do you work with the
25 Federal Bureau of Investigation?

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Official Court Reporter

Andrew - Direct/Merkl

1 A That's correct.

2 Q Were you previously employed directly by Federal Bureau of
3 Investigation?

4 A Yes, I was.

5 Q Over what period of time?

6 A From 1972 to 2004.

7 Q When you worked for the FBI, what positions did you hold?

8 A I was a special agent. I became a supervisor and then I
9 became a unit chief.

10 Q And what chief -- what unit were you the chief of?

11 A The National Academy Unit at Quantico, Virginia, at the FBI
12 Academy. That was the last position before I retired.

13 Q And you mentioned you also served as a special agent at an
14 earlier point?

15 A I did. I worked in the New York office from 1976 to 1993.
16 I was a special agent there and went on to become a supervisor
17 there.

18 Q If I could direct your attention to 1981.

19 What was your assignment at that time with the FBI?

20 A At the time I was a surveillance agent and a team leader of
21 a surveillance team.

22 Q Could you briefly explain what a surveillance agent does?

23 A We conduct surveillances, both physical and photo
24 surveillances, of different investigations for different squads
25 of agents.

Andrew - Direct/Merkl

1 Q Approximately how long did you serve as a surveillance
2 agent or as a team leader in the surveillance squad?

3 A From 1979 to 1983.

4 Q When you conducted surveillance, what was your practice
5 with regard to documenting what you observed?

6 A We, we conducted surveillances. We prepared physical
7 surveillance logs and photo surveillance logs, or a combination
8 of, of both.

9 Q The log that you mentioned, was that log kept
10 contemporaneously while you were making the observations?

11 A Yes, we kept rough notes and we prepared a log afterwards.

12 MS. MERKL: Your Honor, may I approach?

13 THE COURT: Yes, you may.

14 BY MS. MERKL: :

15 Q Mr. Andrew, I just handed you a document we marked as
16 Government Exhibit 3500-WA1.

17 Do you recognize that document?

18 A Yes, I do.

19 Q Without getting into the content of the document, what do
20 you recognize the document to be?

21 A It is a photo and a physical surveillance log that was
22 conducted on May 6th of 1981.

23 Q And it's in your handwriting? You prepared it?

24 A Yes, it is.

25 Q Would that surveillance log having been available to you

Andrew - Direct/Merkl

1 assist you to refresh your recollection if needed with regard
2 to your testimony here today?

3 A Yes, it would.

4 Q You mentioned that that surveillance log pertained to
5 May 6, 1981?

6 A That's correct.

7 Q Where were you working on that date?

8 A The surveillance started at 8:30 in the vicinity of
9 Metropolitan Avenue in Middle Village, and it was in the
10 vicinity of Catalano Brothers Bakery.

11 Q At some point, did you go to a different location?

12 A Yes, we did.

13 Q Where did you go?

14 A We went over to the Capri Motor Lodge at the foot of the
15 Whitestone Bridge.

16 Q Did you take any photographs on May 6, 1981?

17 A Yes, I did.

18 Q If I could direct your attention to approximately
19 12:00 p.m. on May 6th, 1981, where were you at that point in
20 your day?

21 A I was in a surveillance van set up in the parking lot of
22 the Capri Motor Lodge.

23 Q In brief, what did you observe?

24 A At approximately -- well, not approximately, at 12:10 p.m.,
25 I observed Gerlando Sciascia and Joseph Massino exited the

Andrew - Direct/Merkl

1 motel and proceeding to a blue Buick followed by two other
2 individuals, and after a brief period of time, Mr. Massino and
3 Mr. Sciascia got into one vehicle, a, I believe a blue Buick,
4 and the other two individuals proceeded into a red pickup
5 truck.

6 MR. GOLTZER: Judge, please note my technical
7 objection to the witness reading from something that's used to
8 refresh his recollection.

9 If the government wants to offer it as a memorandum of
10 a recollection past recorded, I have no objection to the
11 document coming into evidence. But that's really what's going
12 on.

13 MS. MERKL: Your Honor, I apologize. I had not
14 observed that.

15 A I can read --

16 THE COURT: Fine. I note the objection.

17 I just advise the witness not to read from the
18 document which is not in evidence, but if you wish to read
19 something to refresh your recollection and then answer the
20 question, that's fine.

21 THE WITNESS: Okay.

22 THE COURT: You can continue.

23 BY MS. MERKL: :

24 Q Did you observe any contact between those four individuals
25 you described seeing?

CHARLEANE M. HEADING, RMR, CRR, FCRR
Official Court Reporter

Andrew - Direct/Merkl

1 A Yes. Mr. Sciascia and Mr. Massino walked out first and
2 were talking with each other, and the other two individuals
3 came out behind them, and they briefly spoke, and then they
4 both got into the separate vehicles, two and two.

5 MS. MERKL: Your Honor, may I approach?

6 THE COURT: Yes, you may.

7 Q Mr. Andrew, I'm going to show you what I've marked as
8 Government Exhibit 202.

9 Do you recognize those?

10 A Yes, I do.

11 Q And without going into the details, are these photographs?

12 A Yes, they are.

13 Q And are these photographs fair and accurate depictions of
14 what you observed on May 6, 1981?

15 A That is correct.

16 MS. MERKL: Your Honor, we offer Government
17 Exhibit 202 and 202-1, a miniature of this same document into
18 evidence.

19 MR. GOLTZER: No objection.

20 THE COURT: All right. Government Exhibits 202 and
21 202-1 are received in evidence without objection.

22 (Government's Exhibit Nos. 202 and 202-1 so marked.)

23 THE COURT: You may publish them to the jury.

24 (Exhibit published to the jury.)

25 Q Do you see that on your screen, Mr. Andrew?

Andrew - Direct/Merkl

1 A Yes.

2 Q If you touch the screen, it actually puts a little mark on
3 the screen.

4 A Okay.

5 Q So could you identify for the members of the jury the men
6 in these photographs that you recognize?

7 A Yes. That is Gerlando Sciascia and beside him is Joey
8 Massino, Joseph Massino.

9 Q So just to be clear for the record, in the upper left-hand
10 photograph, the individual on the left was Gerlando Sciascia?

11 A Yes.

12 Q And the individual on the right is Joseph Massino, of the
13 two individuals depicted in the middle of the photograph, is
14 that correct?

15 A Yes, that's correct.

16 Q And do you recognize those men in the additional pictures
17 as well, any of the additional pictures?

18 A No, I do not.

19 Q I'm sorry. In the -- these two men you do not recognize?

20 A I know there were, they came out with them, but I don't
21 know who they are.

22 Q Okay. And in the picture in the upper right-hand corner of
23 the exhibit, do you recognize those men?

24 A Yes, that's Gerlando Sciascia on the left and Joseph
25 Massino on the right.

Andrew - Direct/Merkl

1 Q Now, you mentioned there are two men who spoke with them.

2 At the point in time you took the surveillance, you
3 did not know who they were?

4 A No, I did not.

5 Q During your time in the New York office of the FBI, at any
6 point did you learn there were three captains in the Bonanno
7 crime family were killed?

8 A I did, afterwards.

9 Q You learned after they were killed?

10 A Yes.

11 Q And do you know when your surveillance was taken in
12 reference to when those captains were killed?

13 A It was taken following that, a day or so, I believe. I'm
14 not sure.

15 MS. MERKL: I have nothing further, your Honor.

16 THE COURT: Anything on cross?

17 MR. GOLTZER: No, thank you.

18 THE COURT: Very well.

19 The witness is excused.

20 You may stand down, sir.

21 THE WITNESS: Thank you.

22 (Witness excused.)

23 THE COURT: All right. The government may call its
24 next witness.

25 MR. FRANK: Thank you, your Honor. The government

Rooney - Direct/Frank

1 calls Charles Rooney.

2 THE CLERK: Sir, please raise your right-hand.

3 C-H-A-R-L-E-S R-O-O-N-E-Y, having been first duly sworn,
4 was examined and testified as follows:

5 THE CLERK: Please have a seat. Please state and
6 spell your full name for the record.

7 THE WITNESS: Charles Rooney, R-O-O-N-E-Y.

8 MR. FRANK: May I inquire, your Honor?

9 THE COURT: You may.

10 MR. FRANK: Thank you.

11 DIRECT EXAMINATION

12 BY MR. FRANK:

13 Q Good afternoon, sir.

14 What is it that you do for a living?

15 A I'm retired from the FBI at this point. I do contracting
16 work for the Federal Government.

17 Q And over what period of time were you employed by the FBI?

18 A I was employed from 1970 to 2006.

19 Q And you retired in 2006?

20 A Retired in 2006.

21 Q What was the last position that you held with the FBI at
22 the time of your retirement?

23 A My last position was a section chief within the criminal
24 investigative division of the FBI.

25 Q Is that in Washington, D.C.?

CHARLEANE M. HEADING, RMR, CRR, FCRR
Official Court Reporter

Rooney - Direct/Frank

1 A In Washington, D.C., FBI headquarters.

2 Q Directing your attention to the period 1980 to
3 approximately 1983, where were you assigned during that period?

4 A At that time I was assigned at the Brooklyn-Queens office
5 of the New York division of the FBI.

6 Q Were you assigned to a particular squad?

7 A Assigned to a squad that handled Bonanno family matters in
8 the Brooklyn-Queens office.

9 Q And during that period of time, did you ever, in
10 cooperation with prosecutors' offices, subpoena materials?

11 A Yes.

12 Q And did those materials include photographs?

13 A Yes, it did.

14 Q Prior to your testimony today, have you had an opportunity
15 to review any photographs?

16 A Yes, I have.

17 MR. FRANK: If I may approach, your Honor?

18 THE COURT: Yes, you may.

19 MR. FRANK: Showing the witness Government
20 Exhibit 201.

21 Q Mr. Rooney, do you recognize those photographs?

22 A Yes, I do.

23 Q And are these the photographs that you reviewed with the
24 government?

25 A Yes.

Rooney - Direct/Frank

1 Q And how did you obtain these photographs?

2 A Well, they were obtained in response to a subpoena that was
3 issued in the Southern District of New York in connection with
4 an investigation.

5 Q And what was that subpoena for?

6 A Photographs of a wedding that took place in November of
7 1980, the wedding of Giuseppe Bono.

8 Q And where did that wedding occur?

9 A The reception took place at the Pierre Hotel.

10 MR. FRANK: Your Honor, we'd offer Government's
11 Exhibit 201.

12 MR. GOLTZER: No objection.

13 THE COURT: All right. Government Exhibit 201 is
14 received in evidence without objection.

15 (Government's Exhibit No. 201 so marked.)

16 MR. FRANK: And we'd also admit 201-1, which is a
17 miniature.

18 MR. GOLTZER: No objection.

19 THE COURT: Okay. 201-1 admitted.

20 (Government's Exhibit No. 201-1 so marked.)

21 MR. GOLTZER: May I come around and observe it?

22 THE COURT: Surely.

23 (Pause in the proceedings.)

24 Q Mr. Rooney, you mentioned that you had subpoenaed these
25 photographs.

Rooney - Direct/Frank

1 Who did you subpoena them from?

2 A They were subpoenaed from a photographer who had taken the
3 photographs.

4 Q And was that photographer associated with the Pierre Hotel?

5 A I believe it was, yes.

6 Q And are these some of the photographs that you subpoenaed
7 or all of the photographs?

8 A No, that's only a few of the, of the group of photographs
9 that were taken.

10 Q You mentioned that this was the wedding of an individual I
11 believe you identified as Giuseppe Bono?

12 A That's correct.

13 Q Based on your investigation, did you have an understanding
14 of who Giuseppe Bono was?

15 MR. GOLTZER: Objection. Hearsay.

16 THE COURT: You may answer.

17 A Yes. I learned from, during the investigation, the
18 identity of Bono.

19 Q And who was Bono?

20 A Giuseppe Bono was a boss of Sicilian mafia family that
21 operated out of Milan, Italy, though, who had come to New York
22 in 1980.

23 MR. FRANK: Your Honor, can I ask the witness to step
24 down and approach the exhibit?

25 THE COURT: Yes, you may.

Rooney - Direct/Frank

1 You may step down.

2 You are going to ask him to identify --

3 MR. FRANK: I am, your Honor.

4 THE COURT: -- some of the people in the pictures?

5 MR. FRANK: I am.

6 THE COURT: Stand away from the exhibit so that all of
7 the jurors may be able to see.

8 BY MR. FRANK: :

9 Q Directing your attention to the top left photograph on the
10 exhibit, can you identify the individual standing in the back
11 row, the second individual in from the left?

12 A Right here is --

13 THE COURT: You have to stand back a little.

14 THE WITNESS: Sorry.

15 THE COURT: Not you. Go ahead.

16 A This is Vincent Basciano.

17 Q Thank you.

18 THE JURY: I'm sorry, I couldn't hear the answer.

19 THE COURT: Repeat your answer.

20 A Vincent Basciano.

21 Q And directing your attention to this individual standing in
22 the back row who's in the middle, can you tell us who that
23 individual is?

24 A This is Phillip, Phil Lucky Giaccone.

25 Q I'm just going to apply a sticker.

Rooney - Direct/Frank

1 And directing your attention to the individual who's
2 seated at the table directly in front of the defendant, can you
3 tell us who that individual is?

4 A That was Dominick "Big Trin" Trinchera.

5 THE COURT: And this is the top left photograph.

6 MR. FRANK: We're still on the top left photograph.
7 That's correct, your Honor.

8 Q Mr. Rooney, you're familiar with the three captains'
9 murder?

10 A Yes.

11 Q Can you tell the jury who Phil Lucky Giaccone and Dominick
12 Trinchera were?

13 A They were two of the captains who were murdered on May 5,
14 1980.

15 Yes, May 5, 1981, excuse me.

16 Q And that was just a few months after this photograph was
17 taken?

18 A Yes.

19 Q And directing your attention to the individual seated next
20 to Dominick Trinchera in the middle of the photograph, can you
21 tell us who that individual was?

22 A This individual is JB Indelicato.

23 Q And based on your investigation, did you have an
24 understanding of who JB Indelicato's brother was?

25 A JB's brother was Alphonse "Sonny Red" Indelicato.

Rooney - Direct/Frank

1 Q And who was Alphonse "Sonny Red" Indelicato?

2 A He was the third capo who was murdered on May 5, 1981.

3 Q And directing your attention to the individual who is
4 seated all the way on the right in the photograph, can you tell
5 us who that is?

6 A That is Bruno Indelicato, the son of Sonny Red, Alphonse.

7 Q And can you finally tell us who the individual is in the
8 middle between J.B. Indelicato, Sonny Indelicato's brother, and
9 Bruno Indelicato, Sonny Indelicato's son?

10 A This is Lino, Frankie Lino, I believe it was.

11 Q And finally, do you know who this individual is all the way
12 on the left of the photograph?

13 A This was Joe Benanti.

14 THE COURT: I'm sorry. Say that again.

15 THE WITNESS: Joe Benanti.

16 Q Thank you. I'm now directing your attention to the
17 photograph on the top right of the exhibit, the individual
18 seated in the front of the photograph.

19 A This was Gerlando "George" Sciascia.

20 THE COURT: Mr. Frank.

21 THE WITNESS: S-C-I-A-S-C-I-A.

22 THE COURT: I know you want to put the particular
23 sticker on. You have to move out of the way so the jurors can
24 see the picture at the end.

25 I'm sorry. Who did you say that was?

Rooney - Direct/Frank

1 THE WITNESS: Gerlando Sciascia.

2 Q And could you tell the jurors who the individual is, the
3 male individual standing directly behind George Sciascia?

4 A This individual is Vito Rizzuto.

5 Q Do you know who anyone else in this photograph is?

6 A This individual was Giuseppe Joe LoPresti.

7 Q Thank you.

8 Directing your attention now to the photograph on the
9 bottom left of the exhibit, there's a male individual seated in
10 the front of the photograph.

11 Can you tell the jurors who that individual was?

12 A This was Cesare Bonventre.

13 Q And who is the individual who's standing directly behind
14 Cesare Bonventre?

15 A The male individual here is Baldo Amato.

16 Q Do you recognize any other individuals in that photograph?

17 A This would have been Sal Mirabile, I believe.

18 Q You're pointing the pointer at a male individual here --

19 A Here.

20 Q -- seated in the middle of the photograph?

21 A Right.

22 Q And is there anyone else in that photograph that you can
23 identify?

24 A I believe that's his son, Jack.

25 Q You're pointing to the individual --

Rooney - Direct/Frank

1 A Next to Jack Mirabile.

2 Q Directing your attention now to the middle photograph in
3 the bottom row, can you tell us who the male individual is
4 who's standing in the front of that photograph?

5 A This individual here, we knew him as Gianni "John"
6 Ligammari.

7 Q Also known as Giovanni?

8 A Giovanni may have been his proper name. Gianni, Giovanni
9 would have been the same.

10 Q Thank you.

11 And finally directing your attention to the photograph
12 on the right, are many of these individuals related to one
13 another?

14 A Yes.

15 Q And can you tell us who these individuals are, beginning
16 with the gentleman standing to the left of the photograph?

17 A This individual here is Dominick "Domenico" Catalano,
18 C-A-T-A-L-A-N-O.

19 Q And there's a woman standing to Mr. Catalano's left. Who
20 is that?

21 A I believe this was his sister, Vita, V-I-T-A, Catalano.

22 Q And who is the gentleman to her left?

23 A This is Salvatore "Toto" Catalano.

24 Q Sal Catalano?

25 A Sal Catalano.

Rooney - Direct/Frank

1 Q And who is the individual to his left?

2 A That was Dominick Tartamella.

3 Q And who is the male individual standing in the back row all
4 the way to the right of the photograph?

5 A That is Santo Giordano.

6 Q And finally, do you recognize the male who is seated in the
7 middle of the table?

8 A This would have been Vito, another brother of the other
9 Catalanos. Vito Catalano.

10 Q Thank you.

11 If you could just stay standing there one moment, I'm
12 going to show you now what's been previously introduced as
13 Government Exhibit 202.

14 (Exhibit published to the jury.)

15 Q And have you previously had an opportunity to review the
16 photographs in Government Exhibit 202?

17 A Yes.

18 Q Directing your attention to the top left photograph, can
19 you identify the two individuals who are walking arm and arm?

20 A This was Gerlando Sciascia and next to him is Joseph
21 Massino.

22 Q And can you recognize the -- well, before I ask you that
23 question, there are two individuals walking behind Sciascia and
24 Massino.

25 Do you see Sciascia and Massino again in the bottom

Rooney - Direct/Frank

1 middle photograph?

2 A Yes. They're entering Sciascia's vehicle. That was the
3 vehicle that we knew at the time belonged to Gerlando Sciascia.

4 Q You had associated that vehicle previously with Sciascia?

5 A Yes.

6 Q And are those two individuals who are walking behind
7 Massino and Sciascia in the bottom middle photograph, do those
8 appear to you to be the same individuals in this top left
9 photograph?

10 A That's correct, yes.

11 Q And can you identify who these two individuals are?

12 A This individual in the rear is Giovanni "Johnny" Ligammari.
13 And this individual here is Vito Rizzuto.

14 Q And the individual you've identified as Giovanni Ligammari,
15 is that the same Giovanni Ligammari that you previously
16 identified in the Bono wedding photograph?

17 A Yes.

18 Q And Vito Rizzuto, is that the same Vito Rizzuto that you
19 identified in the Bono wedding photograph?

20 A That is correct.

21 Q Directing your attention to the vehicle in the left
22 photograph on the bottom row, there's a Ford truck.

23 Do you recognize that truck?

24 A Yes, I do. That was the truck that was driven by Giovanni
25 Ligammari.

Rooney - Cross/Goltzer

1 Q And you previously associated that truck with Giovanni
2 Ligammari?

3 A Yes, I did. I believe it was a red Ford pickup with New
4 Jersey license plates.

5 Q And to be clear, who are the two individuals in that bottom
6 left photograph?

7 A This is Gerlando Sciascia again and Joseph Massino.

8 Q And directing your attention to the right photograph, who
9 are those two individuals walking arm and arm?

10 A Again, Joseph Massino and Gerlando Sciascia.

11 Q And directing your attention to the bottom photograph?

12 A It looks like Gerlando Sciascia driving away and Joseph
13 Massino, the passenger in the car.

14 MR. FRANK: Thank you. You may resume your seat.

15 And actually, your Honor, I have no further questions.

16 THE COURT: Cross-examination?

17 MR. GOLTZER: Thank you, your Honor.

18 CROSS-EXAMINATION

19 BY MR. GOLTZER:

20 Q Good afternoon, sir.

21 A Good afternoon.

22 Q How long did you work on the Bonanno family investigations?

23 A From approximately 1980 through 1987.

24 Q You've identified a number of individuals at the Bono
25 wedding. Some of them are dead, right?

Rooney - Cross/Goltzer

1 A Yes, that's correct.

2 Q You learned through your investigation which of those
3 people are deceased, is that correct?

4 A That's correct.

5 Q Giaccone, deceased?

6 A He's deceased.

7 Q Trinchera?

8 A He's deceased.

9 Q Indelicato, the elder?

10 A Alphonse, Sonny Red, deceased.

11 Q Bonventre?

12 A Deceased.

13 Q Who else?

14 A Sciascia.

15 Q Deceased?

16 A Joseph LoPresti now deceased.

17 Q LoPresti was murdered?

18 A Murdered.

19 Q And Ligammari had a son, is that correct?

20 A I believe he did, yes.

21 Q And both Ligammari and his son were found hung in the
22 basement of their home in Jersey, was it your investigation, on
23 the same date?

24 MR. FRANK: Objection, your Honor.

25 THE COURT: Sustained. Sustained.

Rooney - Cross/Goltzer

1 Q Do you happen to know how old Mr. Basciano was when that
2 photograph was taken in 1980?

3 A He was young. I would suspect he was probably about 20,
4 21.

5 Q And did you know as a result of your investigation that at
6 the time that particular photograph was taken, Mr. Basciano was
7 a driver for Trin Trinchera?

8 A At the time of the photograph, no.

9 Q Did you know what he was doing at the wedding --

10 MR. FRANK: Objection, your Honor.

11 Q -- from your investigation?

12 THE COURT: You may answer.

13 A He was attending the wedding. That was the one thing that
14 we did know.

15 Q Did you see -- do you know whether Joe Massino attended the
16 wedding?

17 A I do not recall seeing a photograph of Massino at the
18 wedding.

19 Q There was a time whether, according to your investigation,
20 you learned that Joseph Massino was on the lam?

21 MR. FRANK: Objection, your Honor. This is well
22 beyond the direct.

23 THE COURT: Sustained.

24 MR. GOLTZER: May I adopt him as my own witness?

25 THE COURT: You can call him later.

Rooney - Cross/Goltzer

1 MR. GOLTZER: Thank you.

2 No further questions at this time.

3 THE COURT: Anything else?

4 MS. MERKL: Not from the government, your Honor.

5 THE COURT: All right.

6 Sir, you may stand down.

7 You are excused.

8 THE WITNESS: Thank you, your Honor.

9 THE COURT: You're welcome.

10 (Witness excused.)

11 THE COURT: You may call your next witness.

12 MS. ARGENTIERI: Judge, prior to calling the next
13 witness, we would like to move into evidence certain documents
14 that the defense has had an opportunity to review, and it's my
15 understanding they have no objection.

16 THE COURT: All right. Why don't we go through those
17 documents now then.

18 MS. ARGENTIERI: Government Exhibit 252, 254, 255,
19 256, 257, 258, 259, 260 and 261.

20 THE COURT: Okay. Government Exhibits 252 through

21 MR. GOLTZER: None, sir.

22 THE COURT: All right. Those exhibits are received in
23 evidence without objection.

24 (Government's Exhibit Nos. 252 and 254 through 261 so
25 marked.)

CHARLEANE M. HEADING, RMR, CRR, FCRR
Official Court Reporter

Fitzpatrick - Direct/Argentieri

1 MS. ARGENTIERI: The government calls Rita
2 Fitzpatrick.

3 THE COURT: Please raise your right-hand.

4 R-I-T-A F-I-T-Z-P-A-T-R-I-C-K, having been first duly
5 sworn, was examined and testified as follows:

6 THE COURT: You may be seated.

7 Please state and spell your full name for the record.

8 THE WITNESS: Rita Fitzpatrick, R-I-T-A, Fitzpatrick,
9 F-I-T-Z-P-A-T-R-I-C-K.

10 THE COURT: You may inquire.

11 MS. ARGENTIERI: Thank you, Judge.

12 DIRECT EXAMINATION

13 MS. ARGENTIERI:

14 Q Ms. Fitzpatrick, where are you employed?

15 A I am retired.

16 Q When did you retire?

17 A In July of 2005.

18 Q From what?

19 A I was an agent with the FBI.

20 Q How long were you an agent with the FBI?

21 A For 25 years.

22 Q And what was your last assignment with the FBI?

23 A I worked on an organized crime squad.

24 Q As part of your work on that squad, did you participate in
25 surveillances?

CHARLEANE M. HEADING, RMR, CRR, FCRR
Official Court Reporter

Fitzpatrick - Direct/Argentieri

1 A Yes, I did.

2 Q Can you explain to the jury what a surveillance is?

3 A A surveillance will help to determine the, where the
4 subject goes, where he spends his time, and who he associates
5 with.

6 Q Did you conduct surveillances of Vincent Basciano on
7 February 15th, 2001?

8 A Yes, I did.

9 Q And October 15, 2002?

10 A Yes, I did.

11 Q Both dates?

12 A Yes.

13 Q And where, where did you conduct those surveillances?

14 A At his residence.

15 Q And do you recall the location?

16 A Yes, that was 146 Revere Avenue in the Bronx.

17 Q As you sit here today, do you recall each and every detail
18 of those surveillances?

19 A No, I don't.

20 Q At the time that you conducted those two surveillances, did
21 you prepare a report?

22 A Yes, I did.

23 Q And at that time, did you review that report to make sure
24 that it was accurate?

25 A Yes, I did.

Fitzpatrick - Direct/Argentieri

1 Q Would it aid your testimony here today to be able to refer
2 to those reports?

3 A Yes.

4 MS. ARGENTIERI: May I approach, Judge?

5 THE COURT: Yes, you may.

6 MS. ARGENTIERI: I'm giving the witness 3500-RF1 and
7 2.

8 Q Please don't read from the exhibits, but you can refer to
9 them during your testimony to the extent you need to.

10 Directing your attention to February 15th, 2001, at
11 about what time did you begin your surveillance that day?

12 A We started at 10:45 in the morning.

13 Q And what time did you finish?

14 A We finished at 4 o'clock in the afternoon.

15 Q Where was that surveillance initiated?

16 A At the residence of Vincent Basciano, which is 146 Revere
17 Avenue in the Bronx.

18 Q What was the purpose of your surveillance that day?

19 A We had information that he might be meeting with Anthony
20 Indelicato.

21 Q And at that time, were you looking for any specific
22 vehicles?

23 A Yes, we knew Mr. Indelicato to drive a black Jeep.

24 Q I'm showing you government Exhibit 252.

25 (Exhibit published to the jury.)

Fitzpatrick - Direct/Argentieri

1 Q What is that?

2 THE COURT: It's on the screen.

3 THE WITNESS: Oh.

4 A This is a New York State DMV record for a black Jeep. I
5 can't see the license plate on this record, but it's registered
6 to Anthony Indelicato, 78-02 160th Avenue, Howard Beach,
7 New York.

8 Q If you could just pull the microphone over so that when
9 you're looking at the screen you can also be heard.

10 And you said, you said that was a black Jeep?

11 A Yes.

12 Q Directing -- going back to your surveillance, when you
13 started that surveillance, were you alone?

14 A No.

15 Q Who was with you?

16 A FBI Special Agent Elizabeth Baron and U.S. Probation
17 Officer Alfred Watson.

18 Q Now, at the time of that surveillance in February of 2001,
19 what squad was Special Agent Baron assigned to?

20 A She was assigned to an organized crime squad in Manhattan.

21 Q And was she conducting an investigation into any particular
22 individual?

23 A Vincent Basciano.

24 Q Prior to February 15th, 2001, had you ever seen Vincent
25 Basciano before?

Fitzpatrick - Direct/Argentieri

1 A No.

2 Q Prior to that day, had you ever seen Anthony Indelicato?

3 A No.

4 Q Directing your attention to approximately 12:30 on
5 February 15th, 2001, what happened then?

6 A Agent Baron and Probation Officer Watson decided to check
7 out some locations in Manhattan that they knew Mr. Indelicato
8 and Mr. Basciano had met on previous occasions.

9 Q And what did you do?

10 A I stayed at the residence.

11 Q Directing your attention to 2:04 p.m. on February 15th,
12 2001, what did you observe?

13 A I was driving down Tremont Avenue and I made a right turn
14 on Schurz Avenue. The Basciano residence is on the corner of
15 Schurz and Revere, and I observed a red Dodge Durango pulled
16 over to the side entrance to the Basciano residence, and there
17 was a man getting into, just -- he was in the car and he was
18 just closing the door to the car, in the passenger side.

19 Q And were you able to get the license plate number of that
20 Dodge Durango?

21 A Yes, I did.

22 Q What was it?

23 A It was New York registration CV809T.

24 Q Showing you on your screen Government Exhibit 254, what is
25 that?

Fitzpatrick - Direct/Argentieri

1 (Exhibit published to the jury.)

2 A That is a, it looks like a 2000 -- I'm not sure what year
3 it was, but it's a Dodge Durango registered to Robina Burke,
4 78-02 160th Avenue, Howard Beach, New York.

5 Q And what was the license plate on that vehicle?

6 MS. ARGENTIERI: May I approach, Judge?

7 THE COURT: Yes, you may.

8 A The license plate is New York CV809T.

9 Q And you said that was registered to Robina Burke?

10 A Yes.

11 Q And the address on this was 78-02 160th Avenue?

12 A Yes. Howard Beach, New York.

13 Q And just looking back at Government Exhibit 252, was the
14 same address?

15 A It's the same address.

16 Q Now, do you know how Robina Burke is related to
17 Mr. Indelicato?

18 A She's the sister of Mr. Indelicato's wife, Cathy.

19 Q Showing you Government Exhibit 259.

20 (Exhibit published to the jury.)

21 Q What is that?

22 A That's a birth certificate.

23 Q For who?

24 A For Robina Burke.

25 Q And who does it list as her parents?

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1 A Her father is James Joseph Burke. Her mother is Francis
2 Lorraine Dizinno.

3 Q And what does it list as Mr. Burke's employment?

4 A He's the owner/operator of J&B Stone and Concrete.

5 Q Showing you Government Exhibit 258 in evidence.

6 A That's a birth certificate.

7 Q For who?

8 A Catherine Marie Burke.

9 Q And who does it list as her parents?

10 A James Joseph Burke and Francis Lorraine Dizinno.

11 Q The same parents as the previous exhibit for Robina Burke?

12 A Yes.

13 Q Showing you in evidence Government Exhibit 257, what is
14 that?

15 A That's an application for a marriage license.

16 Q For who?

17 A It's in the state of Illinois and it's for Anthony Joseph
18 Indelicato and Catherine Marie Burke.

19 Q And does it list the address for Catherine Marie Burke as
20 160th Avenue?

21 A Yes. 78-02 160th Avenue, Howard Beach.

22 Q And over here where it lists the applicant's father of the
23 groom, who does it list as Anthony Indelicato's father?

24 A Alfonso Indelicato.

25 Q And does it indicate whether Alfonso is alive or dead?

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1 A It says he's deceased.

2 Q And looking at the address for James Joseph Burke that's
3 listed, what is the address that's listed?

4 A It's Attica, New York.

5 Q Do you know what's located in Attica, New York?

6 A Yes, there's a New York State prison there.

7 Q And looking at the address for Mr. Indelicato, Anthony
8 Indelicato, what does it list his address as?

9 A Can you pull it down?

10 Q Would it be helpful if I showed it to you?

11 Let me try to zoom it in.

12 A Okay. It's a post office box in Terra Haute, Indiana.

13 Q Do you know what's located in Terra Haute, Indiana?

14 A There's a federal prison there.

15 Q You said on February 15, 2001, you observed a red Dodge
16 Durango?

17 A Yes.

18 MS. ARGENTIERI: Judge, may I approach?

19 THE COURT: Yes, you may.

20 MS. ARGENTIERI: I'm going to show the witness
21 Government's Exhibit 433 for identification.

22 Q What is that?

23 A That's the residence of Vincent Basciano, 146 Revere Avenue
24 in the Bronx.

25 Q And is that a fair and accurate picture of the residence as

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1 generally --

2 A Yes.

3 Q -- as it appeared that day?

4 A Yes.

5 MS. MERKL: The government admits --

6 MR. GOLTZER: No objection.

7 THE COURT: Government Exhibit 433 is received in
8 evidence without objection.

9 MR. GOLTZER: I assume it's being offered as the
10 residence at that time.

11 MS. ARGENTIERI: That's correct, Judge.

12 (Government's Exhibit No. 403 so marked.)

13 Q Where were you when you first observed the red Dodge
14 Durango?

15 A I was just -- Tremont Avenue was just to the right of that
16 car that was parked in the driveway. So, I was coming
17 southbound on Tremont Avenue and I made a right turn on the
18 street just before that. So I made the turn, and right there
19 was the red Durango so I stopped.

20 THE COURT: If you touch the screen with your finger,
21 you can show us where it was.

22 THE WITNESS: Okay.

23 A I was coming down Tremont Avenue, which is approximately
24 here. (Indicating.)

25 I made the right --

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1 Q I'm sorry. Can you indicate which street is Tremont
2 Avenue?

3 A It's not in the picture, but it would be, maybe it was a
4 house -- I think there's a house facing Tremont. That's the
5 last house on that corner.

6 Then I made the, came down and made the right turn
7 just right, right off the picture, actually.

8 Q So what is the street that's depicted in the picture?

9 A This is, this is actually Schurz Avenue.

10 Q And where is Revere Avenue?

11 A Revere Avenue is this way.

12 The real --

13 Q Are you indicating over here?

14 A Yes. Uh-huh.

15 Q So where is the actual entrance to the house?

16 A The actual entrance to the house, Revere Avenue, is here,
17 but this is, the house is a very long house. This is a side
18 entrance right here.

19 Q So what the picture is of is of the side entrance?

20 A The side entrance.

21 Q So you indicated that the Dodge Durango was at this arrow
22 right here in front of this tree when you first observed it?

23 A No, it was parked down here by the side entrance to the
24 house.

25 Q I'm just going to clear it. If you could --

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1 THE COURT: Touch the screen to clear it at the bottom
2 left.

3 THE WITNESS: Okay.

4 Q Okay, if you can just touch now.

5 A Okay. Approximately right there. (Indicating)

6 Q What did you observe?

7 A I observed the arm of a male. I could tell it was a grown
8 man and it was a white male because I could see his hand just
9 closing the door, like someone had just been picked up and the
10 door was being closed.

11 Q And where were you traveling as you saw that?

12 A I was going to be doing, I was doing a driveby at the
13 house, and I saw this car, so I stopped. I held back because I
14 knew the door was shutting. It was going to be leaving soon,
15 so I held back long enough to be able to jot down the license
16 plate.

17 Q And what happened next?

18 A And then they basically squared the block, they went around
19 the block to go northbound back on Tremont Avenue. So when
20 they went around the block, I tried to get a look at the
21 driver, so I pulled up on the driver's side, and I looked in to
22 get a look at the driver. And then they made the left turn on
23 Tremont Avenue and so did I.

24 Q Were you able to get a good look at the driver?

25 A All I could tell was he had a full face and a full head of

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1 hair. It was cut short, but it was a full head of hair. He
2 had a good head of hair and that was the best I could see.

3 Q And what happened then?

4 A They went northbound on Tremont Avenue and I tried to
5 follow.

6 Q And were you able to follow them?

7 A Just for a few blocks.

8 Q What happened then?

9 A I got either stuck behind a double-parked car or a light or
10 something. I wasn't able to keep up with them.

11 Q And at some point later that day, did you terminate your
12 surveillance?

13 A At 4 o'clock that afternoon.

14 Q So for how long a period of time total did you see the
15 Dodge Durango?

16 A Oh, no, more than three minutes.

17 Q Directing your attention to October 15th, 2002, where were
18 you conducting surveillance that day?

19 A Also at the residence of Vincent Basciano, 146 Revere
20 Avenue in the Bronx.

21 Q And what time did you begin conducting your surveillance?

22 A We started at 12:09 in the afternoon.

23 Q And what time did you complete it that day?

24 A At 7:55 in the evening.

25 Q And over the course of your surveillance that day, did you,

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1 were you able to observe vehicles --

2 A Yes.

3 Q -- around the defendant's house?

4 A Yes, there were numerous vehicles around the house.

5 Q What, if any, vehicles did you observe that day that was
6 registered to Mr. Basciano?

7 A I only observed one vehicle that was registered to Vincent
8 Basciano and that was a gold Acura bearing New York license
9 AYV3453.

10 Q What, if any, vehicles did you observe that day that were
11 registered to an Angela Basciano?

12 MR. GOLTZER: Objection. Irrelevant.

13 THE COURT: Do you want to make an offer of proof at
14 sidebar?

15 MS. ARGENTIERI: Sure.

16 (Continued on next page.)

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Sidebar

1 (Sidebar.)

2 THE COURT: Go ahead.

3 MS. ARGENTIERI: It's relevant, Judge, because this
4 defendant not only used his own vehicle, but his wife's
5 vehicles.

6 We've had testimony in this case that he was very
7 surveillance conscious, that people in organized crime are
8 surveillance conscious, and that they used people's cars to
9 hide where they're going and to try to evade surveillance.

10 So there's going to be other testimony about these
11 cars later, and the defendant being observant, and that's why
12 it's relevant.

13 MR. GOLTZER: Is there going to be someone identified
14 as Mr. Basciano who's driven Angela's car?

15 MS. ARGENTIERI: There's three different cars and
16 there is going to be, I anticipate, cooperator testimony about
17 the different types of cars Mr. Basciano had, and some of them
18 were registered to Angela.

19 THE COURT: All right.

20 Objection is overruled.

21 (End of sidebar.)

22 (Continued on next page.)

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Fitzpatrick - Direct/Argentieri

1 (In open court.)

2 THE COURT: All right. You may continue.

3 DIRECT EXAMINATION (CONT'D)

4 MS. ARGENTIERI:

5 Q Do you need me to repeat the question?

6 A Yes.

7 Q What, if any, cars did you observe that day that were
8 registered to Angela Basciano?

9 A Okay. I observed three vehicles registered to Angela
10 Basciano. One was a black Mercedes Benz bearing New York
11 license ATE5081.

12 Also a black Lexus, a 2000 Lexus, bearing New York
13 license CAS6059. Okay. And a white BMW bearing New York
14 license BLU8469.

15 Q Showing you Government Exhibit 260, what is that?

16 A Can you pull it down? Okay.

17 That's an application for a marriage license.

18 Q For who?

19 A For Vincent Basciano and Angela Tocco.

20 Q And what is the date on this document?

21 A The date is stamped December 19, 1980, at the bottom left.

22 Q And it states the groom's name as Vincent Basciano?

23 A Yes.

24 Q And the bride's name is Angela Tocco?

25 A Yes.

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1 Q And who does it list as Angela Tocco's parents?

2 A Gennaro Tocco and Carmela Landi.

3 Q Directing your attention to approximately 5:40 p.m. on
4 October 15, 2002, what did you observe?

5 A I observed the black Lexus SUV parked on Revere Avenue at
6 the corner of Schurz.

7 Q Were you able to determine who the car was registered to?

8 A Registration AYC5989, New York registration, and that's
9 registered to Anthony Donato.

10 Q Showing you Government Exhibit 256.

11 (Exhibit published to the jury.)

12 Q What is this?

13 A That's a New York State Department of Motor Vehicles
14 registration record.

15 Q And what kind of car is this registration for?

16 A It's a 1999 Acura.

17 Q Does it indicate the color?

18 A GL. I guess that's gold.

19 Q What's the address? Is it also Eastchester, New York?

20 A Eastchester, New York.

21 Q It's registered to Anthony Donato?

22 A Anthony Donato, yes.

23 Q And what is the date on this document?

24 A It looks like the date on the document is January, that's
25 the expiration.

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1 Q It says it expires --

2 A Okay. That's the expiration date.

3 The date on the document looks like it's -- that one
4 there is January 29, 2003.

5 Q Directing your attention to approximately 6:00 p.m. on
6 October 15, 2002, what did you observe?

7 A At 6:00 p.m., I observed a black Mercedes Benz parked in
8 front of the residence bearing New Jersey license MDF62N.

9 Q And where was that car parked?

10 A It was parked in front of the residence.

11 Q Were you able to determine who that car belonged to?

12 A Yes. That's a leased vehicle registered to Dominick Cicale
13 of Bridgetown, New Jersey.

14 Q What did you observe at that time?

15 A Around that time, I observed Vincent Basciano standing in
16 front of his house in conversation with Dominick Cicale.

17 Q And what happened next?

18 A After several minutes, Cicale entered his vehicle and
19 departed the area.

20 Q Directing your attention to 6:45 p.m. on that date, what
21 did you observe?

22 A I observed Vincent Basciano walking in front of his
23 residence.

24 Q What happened next?

25 A Five minutes later, I observed him standing in front of his

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1 house in conversation with Anthony Donato.

2 Q And as you were making these observations, were you stopped
3 on the street?

4 A Yes.

5 Q Where were you parked?

6 A I don't remember exactly.

7 We, I would actually do drivebys, mostly doing
8 drivebys, that was the easiest way to do it.

9 Q So after you observed Vincent Basciano speaking to Anthony
10 Donato, what happened next?

11 A At 7:15, approximately 25 minutes later, Anthony Donato, I
12 last observed him walking up Revere Avenue and then Vincent
13 Basciano went into his house.

14 Q Directing your attention to 7:39 p.m. on that evening, what
15 did you observe?

16 A I observed the black Lincoln Navigator bearing New York
17 license BCT9389, backing out of the garage of Mr. Basciano's
18 residence.

19 Q And who was driving that vehicle?

20 A Vincent Basciano was driving that vehicle.

21 Q Showing you Government Exhibit 255, what is that?

22 A That's another New York State registration record.

23 Q For what vehicle?

24 A For the black Lincoln.

25 Q Is it the same license plate that you just testified about?

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1 A Yes, BCT9389.

2 Q And who does this record indicate that the car was
3 registered to?

4 A Millie Tocco at 210 Swinton Avenue in the Bronx, New York.

5 Q After Mr. Basciano, after you observed Mr. Basciano in this
6 vehicle, what did you observe next?

7 A He drove north on Tremont Avenue.

8 Q Did you follow him?

9 A Yes, we did.

10 Q Where did you go?

11 A He went to 2868 East 194th Street in the Bronx.

12 Q How long did it take you to get there?

13 A About, about 11 minutes.

14 Q And what was that location?

15 A That's the residence of Debbie Kalb.

16 Q Who is Debbie Kalb?

17 A Mr. Basciano's girlfriend.

18 Q At that point what happened to your surveillance?

19 A We terminated.

20 MS. ARGENTIERI: No questions, Judge.

21 THE COURT: Anything?

22 MR. GOLTZER: Nothing, your Honor.

23 THE COURT: All right.

24 The witness is excused.

25 You may step down.

Fitzpatrick - Direct/Argentieri

1 (Witness excused.)

2 THE COURT: I'd like a sidebar.

3 (Continued on next page.)

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Sidebar

1 (Sidebar.)

2 THE COURT: I'm advised by my courtroom deputy that
3 one of our jurors would like to have some Advil and another
4 juror said she needs, he or she needs cold medicine.

5 Advil is one thing, cold medicine is another. This is
6 not a -- this isn't CVS, so, but, but I can offer, if it's
7 agreeable to you, that if someone wants Advil, we have Advil.

8 MR. GOLTZER: Sure.

9 THE COURT: But if they want to see a nurse, you know,
10 they should let Mr. Reccoppa know.

11 MR. GOLTZER: Fine.

12 MS. MERKL: That's fine.

13 THE COURT: I just wanted to, you know, clear it with
14 the parties before I --

15 MS. ARGENTIERI: No NyQuil.

16 MR. GOLTZER: No scotch.

17 THE COURT: Okay. Thank you.

18 (End of sidebar.)

19 (Continued on next page.)

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USA v. Basciano

1 (In open court.)

2 THE COURT: All right. I understand from my courtroom
3 deputy that someone had asked for some Advil. We do have Advil
4 that you can use if you've got a headache.

5 If for any reason you want to see the nurse, tell
6 Mr. Reccoppa and we'll arrange for you to see the nurse.

7 We have a nurse here until, I don't know if she's here
8 today, but usually she's here 'til like 2 o'clock, so I just
9 wanted to let you know about that and with that, we'll recess
10 for lunch.

11 All rise for the jury.

12 (Jury out at 1:10 p.m.)

13 THE COURT: Does anyone have anything before lunch?

14 MS. ARGENTIERI: Just one thing, Judge.

15 THE COURT: All right. Everyone may be seated.

16 MS. ARGENTIERI: Just very quickly.

17 THE COURT: Just wait a second.

18 (Pause in the proceedings.)

19 THE COURT: Okay.

20 MS. ARGENTIERI: You received into evidence Government
21 Exhibit 253, but I think that I didn't -- I didn't offer that.
22 It's for use with a different witness.

23 THE COURT: I'm sorry, yes.

24 I just went from 252 to 261. 253 is excluded --

25 MS. ARGENTIERI: Thank you, Judge.

1 THE COURT: -- from that list. I stand corrected.

2 Anything else from the defense?

3 MR. GOLTZER: No, thank you.

4 THE COURT: We'll recess for lunch until 2:15 p.m.

5 (Luncheon recess: 1:15 p.m.)

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Rauchet - Direct/Argentieri

AFTERNOON SESSION

(Judge Garaufis resumes the bench.)

(Defendant enters the courtroom.)

THE COURT: All right. Can you just tell me who your -- what your lineup is here for the afternoon?

MS. ARGENTIERI: It's Investigator Joe Rauchet, then Special Agent Bonavolonta and then James Tartaglione.

THE COURT: All right. Let's bring in the jury.

(Jury enters.)

THE COURT: Please be seated.

The Government may call its next witness.

MS. ARGENTIERI: The Government calls Joseph Rauchet.

(Witness sworn.)

THE CLERK: Please have a seat, and please state and spell your full name for the record.

THE WITNESS: Joseph Rauchet, R-A-U-C-H-E-T.

THE COURT: You may inquire.

DIRECT EXAMINATION

BY MS. ARGENTIERI:

Q Sir, where do you work?

A I'm a contract investigator for a security company, headquartered in Maryland.

Q Prior to your current job, where did you work?

A I worked as an organized crime advisor in Macedonio, I worked as a counter IED investigator in Iraq, and the New York

LISA SCHMID, CCR, RMR

Rauchet - Direct/Argentieri

1 State organized crime task force, Attorney General's Office,
2 and NYPD.

3 Q When you worked for New York State, the organized crime
4 task force, was there a name for that? Did they call it OSEN?

5 A No, OCTF.

6 Q Okay. What was your title when you worked there?

7 A I had several. Started as an investigator and left as the
8 deputy chief investigator.

9 Q And what years did you work there?

10 A '95 to 2005.

11 Q At some point were you assistant chief?

12 A Yes.

13 Q And what were your responsibilities as an assistant chief?

14 A I was in charge of operations.

15 Q And for what time period were you assistant chief?

16 A From December '96 to probably 2000.

17 Q Before you worked for New York State in the organized crime
18 division, where did you work?

19 A NYPD.

20 Q What was the highest rank you achieved at the NYPD?

21 A Detective Second.

22 Q And how long did you work for the NYPD?

23 A Twenty-seven years.

24 Q When you were an assistant chief, with New York State, were
25 you involved in an investigation into organized crime?

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Rauchet - Direct/Argentieri

1 A Yes.

2 Q Who were the targets of your investigation?

3 A John Gotti, Jr., Michael McLaughlin, Vinny Zollo.

4 Q What organized crime family was the subject of your
5 investigation?

6 A Gambino.

7 Q What law enforcement techniques did you use to carry out
8 your investigation?

9 A I was a proactive investigation involving physical and
10 electronic surveillances and search warrants.

11 Q Did you participate in executing Court ordered search
12 warrants?

13 A Yes.

14 Q Directing your attention to February 3rd, 1997, what was
15 your assignment that day?

16 A I was supervising the execution of several search warrants
17 being executed throughout New York City.

18 Q And was one of those search warrants conducted at 106-13
19 101st Avenue?

20 A Yes, it was.

21 Q Where was that location?

22 A In Queens, New York.

23 Q What was at that location?

24 A That location was a storefront, three story-building,
25 residential apartments on second and third floor, storefront

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Rauchet - Direct/Argentieri

1 and a basement.

2 Q What was on the first floor?

3 A Social club.

4 Q Had you performed surveillances at that location?

5 A Yes, I have.

6 Q And who have you observed at that location?

7 A John Gotti, Jr., Michael McLaughlin.

8 Q On the day of the search, what did you personally search?

9 A I searched a desk in the basement.

10 Q What did you observe on the desk?

11 A Several papers, inside the desk, in one of drawers was a

12 blue -- small blue cardboard Tiffany box, gift box.

13 Q Did you open that box?

14 A Yes, I did.

15 Q What was in it?

16 A Several small pieces of paper, with printed and typed names
17 and dates.

18 MS. ARGENTIERI: Judge, may I approach?

19 THE COURT: Yes, you may.

20 BY MS. ARGENTIERI:

21 Q I'm showing the witness what's been marked Government
22 Exhibit 118 and 119 (Handing.)

23 Sir, what are those?

24 A These are some of papers -- two of the papers that I found
25 in that box.

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1 MS. ARGENTIERI: The government moves to admit them.

2 MR. GOLTZER: No objection.

3 THE COURT: Government Exhibits 118 and 119 are
4 received in evidence, without objection.

5 BY MS. ARGENTIERI:

6 Q Showing you Government Exhibit 118. Is this one of the
7 pieces of paper you found?

8 A Yes, it is.

9 Q Can you read the top name on this piece of paper?

10 A "Vincent Basciano."

11 THE COURT: Can you enlarge it?

12 THE WITNESS: Thank you.

13 THE COURT: Very good.

14 BY MS. ARGENTIERI:

15 Q You said Vincent Basciano?

16 A Correct.

17 Q Under that?

18 A Sally "Horse" Pozzi.

19 Q And can you describe what appears under that?

20 A Bobby "Bad Heart," 5/89; Albert Chico, 5/86.

21 Q Showing you Government Exhibit 119. Is this another of the
22 pieces of paper that you found?

23 A Yes, it is.

24 Q Can you read the names and the words that appear on the
25 left-hand side?

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1 A Joe Giarino/89, John Fiordilino/89, Armando Pollastino/90;
2 Bobby Lino/89, Paul DiCoco/89; Vincent DeFilippo/89, Mario
3 Campanella/90, Guiseppi Buccellato/90 and Pat Messina/90.

4 Q Then on the other side of the piece of paper there also a
5 list of names?

6 A Yes.

7 Q Can you read those names, sir?

8 A Vito Grimaldi, Joe Cammarano, Vincent D'Antoni, Pete "Box
9 Car" Cosoleto, Anthony Frascione, Gennaro "Jimmy" Barbieri, John
10 "Johnny Boy" Mirabile, Peter Ligammari, Jerome "Jerry" Asaro.

11 Q And based upon your participation in the investigations
12 involving organized crime, what did you believe these to be?

13 MR. GOLTZER: Objection; foundation.

14 THE COURT: Sustained.

15 BY MS. ARGENTIERI:

16 Q Have you participated in organized crime investigation?

17 A Yes, I have.

18 Q And have you become familiar with something known as a
19 proposal list?

20 MR. GOLTZER: Objection to leading.

21 THE COURT: Sustained.

22 BY MS. ARGENTIERI:

23 Q Based upon your participation in organized crime
24 investigation, are you familiar with a process of how a person
25 becomes a member of organized crime?

LISA SCHMID, CCR, RMR

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1 MR. GOLTZER: Objection; foundation.

2 THE COURT: Overruled. You may answer.

3 A Yes.

4 BY MS. ARGENTIERI:

5 Q And what is that process?

6 A The members are proposed. Their names are circulated to
7 the other crime families to see if any other family has a claim
8 or objection against that individual.

9 Q And what is that called?

10 A Propose list, candidates' list.

11 Q And based upon that background, sir, what did you believe
12 these to be?

13 MR. GOLTZER: Objection.

14 THE COURT: Overruled. You may answer.

15 A Those are those lists.

16 MS. ARGENTIERI: No further questions.

17 MR. GOLTZER: May I have the exhibit, please?

18 MS. ARGENTIERI: Sure.

19 MR. GOLTZER: May I just have a moment, Your Honor?

20 THE COURT: Sure.

21 MR. GOLTZER: Thank you.

22 (Pause in proceedings.)

23 CROSS-EXAMINATION

24 BY MR. GOLTZER:

25 Q When you -- good afternoon. When you conducted this search

LISA SCHMID, CCR, RMR

Rauchet - Cross/Goltzer

1 of this particular premise, you were not by yourself?

2 A That is correct.

3 Q You were part of a team, is that correct?

4 A No.

5 Q You were with other officers who were helping you engage in
6 a search warrant execution?

7 A I was called to the scene by the execution team because of
8 recovery of guns and money.

9 Q Guns and money?

10 A Correct.

11 Q What kind of guns?

12 A 22 Derringer and a 22 -- I don't know the make, had a
13 silencer.

14 Q This was a location that was not connected to the Bonanno
15 Family, is that correct?

16 MS. ARGENTIERI: Objection.

17 THE COURT: You may answer. You may answer.

18 A Correct.

19 BY MR. GOLTZER:

20 Q It was connected to a different family?

21 A Correct.

22 Q Which family, the Gambinos?

23 A Yes.

24 Q And the particular premises that you were searching was
25 connected to a guy named McLaughlin, that is correct?

LISA SCHMID, CCR, RMR

Rauchet - Cross/Goltzer

1 A Correct.

2 Q Was McLaughlin, if you know, a made member of the family,
3 the Colombo Family?

4 MS. ARGENTIERI: Objection.

5 THE COURT: Sustained.

6 BY MR. GOLTZER:

7 Q As a result of your investigation, did you learn who
8 McLaughlin was?

9 A Yes, sir.

10 Q Who was he?

11 A He's an associate in the Gambino Family, a good friend of
12 John Gotti, Jr.

13 Q He was a friend of John Gotti, Jr.?

14 A Correct.

15 Q Your team that day seized hundreds of documents?

16 A Negative, no, sir.

17 Q How many documents did you seize?

18 A A list of names with money next to it, and a two of those
19 lists on green accounting paper.

20 Q So, you seized as many documents as appeared pertinent to
21 your investigation?

22 A Correct.

23 Q With respect to the exhibits that were shown to you and
24 placed into evidence, do you know when they were written?

25 A On the back of those papers, it was a year, name and year.

LISA SCHMID, CCR, RMR

Rauchet - Cross/Goltzer

1 Q And it was 1991?

2 A One of them was '91, yes.

3 Q And the other one, if you recall?

4 A Some were from '91 and some were from '92.

5 Q Were you able to determine who wrote them?

6 A No, sir.

7 Q Were you able to determine whether somebody in the Bonanno
8 as opposed to the Colombo Family had written them?

9 MS. ARGENTIERI: Objection.

10 THE COURT: Sustained.

11 BY MR. GOLTZER:

12 Q These were just two pieces of paper as part of a group of
13 papers that were seized from this particular location, right?

14 A No, sir.

15 Q They weren't?

16 A They were part of a group of papers, small separate slips
17 of paper kept separately in a box.

18 Q How many papers were in the box, if you recall?

19 A Maybe six.

20 MR. GOLTZER: Okay. Thank you.

21 THE COURT: Anything else from the Government?

22 MS. ARGENTIERI: No, Judge.

23 THE COURT: All right. The witness is excused. You
24 may stand down, sir.

25 All right. The government may call its next witness.

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 MR. FRANK: Thank you, Judge. The government calls
2 Joseph R. Bonavolonta.

3 (Witness sworn.)

4 THE CLERK: Please have a seat. And please state and
5 spell your full name for the record.

6 THE WITNESS: Joseph -- Bonavolonta is spelled
7 B-O-N-A-V-O-L-O-N-T-A.

8 THE COURT: All right. You may inquire.

9 MR. FRANK: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. FRANK:

12 Q Sir, where are you currently employed?

13 A With the FBI in the Newark Division.

14 THE COURT: Could you move the -- right, the
15 microphone so you can speak right into it?

16 THE WITNESS: Sure.

17 THE COURT: That's fine. Go ahead.

18 THE WITNESS: I'm currently employed with the FBI out
19 of the Newark, New Jersey Division.

20 THE COURT: I don't think the microphone is picking up
21 properly. Okay. Do it, again.

22 A Currently employed with the FBI out of the Newark, New
23 Jersey Division.

24 BY MR. FRANK:

25 Q Thank you. And what is your title at the FBI?

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 A I'm a supervisory special agent.

2 Q How long have you been employed by the FBI?

3 A Approximately 15 years.

4 Q And how long have you been a special agent?

5 A Approximately 11 years.

6 Q Are you currently assigned to a particular squad?

7 A Yes.

8 Q What squad is that?

9 A It's an Economic Crime Squad in Newark.

10 Q How long have you been assigned to the economic crime
11 squad?

12 A A little over three years.

13 Q Were you previously assigned to a different squad?

14 A Yes.

15 Q What squad was that?

16 A Prior to that, I was a supervisor down in the organized
17 crime section in FBI headquarters in Washington, DC, and prior
18 to that, I was assigned as an investigative case agent in the
19 New York office on the squad that handled the Bonanno LCN
20 Family.

21 Q During what period of time were you assigned to the squad
22 in New York that handles the Bonanno LCM Family?

23 A From approximately April 2001 through April 2006.

24 Q Agent Bonavolonta, I would like to direct your attention to
25 January 9th of 2003. Do you have that date in mind?

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 A Yes.

2 Q Were you working on that day?

3 A I was.

4 Q Did anything noteworthy happen in your work that day?

5 A Yes, we executed several arrests.

6 Q Who was arrested on that day?

7 A Daniel Mongelli, Salvatore Vitale and Joseph Massino.

8 Q What was your involvement in those arrests?

9 A I was a team leader on the arrest of Danny Mongelli.

10 Q After the arrests of Joe Massino, Sal Vitale and Danny
11 Mongelli on January 9, 2003, did there come a time when you
12 were contacted about the possible cooperation of an individual
13 known as James Tartaglione?

14 A Yes.

15 Q Approximately when were you contacted about that?

16 A Approximately March or April of 2003.

17 Q And tell us what happened in March or April of 2003?

18 A My partner and I -- my partner was Greg -- Special Agent
19 Gregory Massa, we received a phone call from an Assistant
20 United States Attorney named Ruth Nordenbrook at the time who
21 had been contacted by a probation officer down in Florida,
22 indicating that James Tartaglione wanted to speak to members of
23 the FBI and government for potential cooperation.

24 Q Where was Ruth Nordenbrook an AUSA?

25 A In the Eastern District of New York.

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 Q Did you, in fact, go to Florida to meet with Tartaglione?

2 A Yes, we did.

3 Q What was discussed during that meeting?

4 A Mr. Tartaglione's potential to cooperate with the
5 government and our investigation.

6 Q At some point after that initial meeting, do you know if
7 Tartaglione got a lawyer?

8 A Yes, he did.

9 Q After Tartaglione got a lawyer, did you meet with him
10 again?

11 A Yes.

12 Q What happened?

13 A Well, we engaged in a series of proffer meetings.

14 Q What are proffer meetings?

15 A Proffer meetings at least in our case in this instance were
16 meetings where Mr. Tartaglione, his attorney, my partner and I,
17 and other prosecutors from the United States Attorneys Office
18 would meet, and the purpose of that meeting was for
19 Mr. Tartaglione to discuss any and all past and current
20 criminal activities on behalf of himself, as well as criminal
21 activity that he's aware of that were being conducted by
22 others.

23 Q Did you have one of those sessions or more than one proffer
24 session?

25 A Several.

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 Q During any of those proffer sessions did, you provide
2 information about your investigations to Tartaglione?

3 A No.

4 Q Did there come a time after those proffer sessions -- well,
5 withdrawn.

6 At the time that Tartaglione contacted the probation
7 officer, had Tartaglione been arrested?

8 A Years prior, but not as part of our case.

9 Q Years prior he had been arrested?

10 A Yes.

11 Q And he was on probation at that time?

12 A Right.

13 Q But he had not been arrested as part of the arrest you did
14 in January of 2003?

15 A No.

16 Q And at some point after his proffer sessions with the
17 government, did Tartaglione plead guilty to a crime?

18 A Yes.

19 Q And was that plea pursuant to a cooperation agreement?

20 A Yes.

21 Q And at that time had he been indicted?

22 A No.

23 Q Following his agreement to cooperate with the government
24 and his guilty plea, did Tartaglione agree to assist the
25 government with active investigation?

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 A He did.

2 Q What type of activities did he agree to engage in?

3 A He agreed to work proactively with us, which basically
4 means he agreed to wear a recording device and consensually
5 record meetings as part of our investigation.

6 Q Did he, in fact, go on to wear a consensual recording
7 device?

8 A He did.

9 Q Also known as a wire?

10 A Yes.

11 Q Did he also record telephone conversations?

12 A Yes.

13 Q Was what was your role in that process?

14 A I was one of his primary handling agents at the time.

15 Q What does it mean to be a handling agent?

16 A A handling agent basically assumes all operational and
17 administrative responsibilities when there is a source who's
18 engaging in conducting consensually recorded discussions, and
19 it means debriefing the witness, planning strategies for the
20 investigation, activating and deactivating the device prior and
21 subsequent to the meetings, and anything that really falls
22 within that scope.

23 Q Did you do that alone or were you working with anyone else?

24 A I was working with my partner, Special Agent Gregory Massa.

25 Q Do you know how many -- approximately how many recordings

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 Tartaglione ended up making?

2 A Approximately 45.

3 Q Some of those were phone calls?

4 A Yes.

5 Q Some of those were in-person meetings?

6 A Yes.

7 Q Over what period of time did he make those recordings?

8 A From approximately April or May of 2003, up to
9 January 18th, 2004.

10 Q And at the time that he made those recordings did you
11 review them?

12 A Yes.

13 Q When Tartaglione first started recording conversations who
14 were some of the people that he made recordings against?

15 A He made recordings against Barry Masetti, John Palazolla,
16 Salvatore Volpe, Vincenzo D'Antonio, Genneroso Barbieri, Louis
17 DiChico, Anthony Urso, Joseph Cammarano, Vincent Basciano, and
18 others.

19 Q Did he also record meetings with attorneys?

20 A Yes, he did. He recorded meetings against Scott Lehmann
21 and Larry Bronson, who were both attorneys at the time.

22 Q With respect to the process for making a recording, what
23 would you do on the day that Tartaglione had an in-person
24 meeting that he was going to record?

25 A Well, we would -- we would always meet with Tartaglione

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1 prior to meeting at a covert location, discuss some usually
2 general topics in terms of what Tartaglione thought might be
3 brought up, what we thought might be brought up, and then also,
4 it was to activate the device, and when we would activate the
5 device, we would always issue a preamble, which is basically
6 who we are, the date, the time, who we're giving the recording
7 device to, and if we knew, who the witness was going to meet at
8 that time, and then we would place the device on the witness,
9 and the witness would go and attend the meeting.

10 Q What happened after the meeting?

11 A After the meeting, the witness would meet us back at the
12 covert location. We would immediately retrieve the recording
13 device from him, give a post-amble, which is basically once
14 again identifying ourselves, giving the time, the date, the
15 fact that we have now retrieved the recording device, and then
16 we would deactivate the recording device and then proceed to
17 debrief the witness in terms of what happened at the meeting.

18 Q Who activated and deactivated the device?

19 A Myself and/or Special Agent Massa.

20 Q During the course of your investigation, did Tartaglione
21 ever receive anything from the people that he was meeting with?

22 A He did.

23 Q What did he receive?

24 A He received sums of cash through various meetings totaling
25 approximately \$11,000. He also received a few slips of paper

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 with a telephone number on it and an individual's name on it,
2 and then he also received a list with names typed on it.

3 Q You said he received approximately \$11,000?

4 A Yes.

5 Q What happened to that money?

6 A That money was immediately entered into our valuable
7 evidence vault.

8 Q So, it was taken by the FBI?

9 A Yes.

10 Q You mentioned some documents. I'd like to show you a
11 couple of documents.

12 MR. FRANK: Your Honor, could I just show these to the
13 witness over the Elmo?

14 THE COURT: Yes. Just hold on. Is there a screen on?

15 THE WITNESS: Yes, it is.

16 THE COURT: Okay. Okay. Yes, can you identify it
17 with a number for us here?

18 MR. FRANK: Your Honor, this has been previously
19 marked as Government Exhibit 420.

20 THE COURT: All right.

21 BY MR. FRANK:

22 Q Agent Bonavolonta, do you recognize this document
23 (indicating)?

24 A There's nothing on the screen. It was on before.

25 THE COURT: Hold on. Is that on?

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 THE WITNESS: No.

2 THE COURT: Let me do this again. How about now?

3 THE WITNESS: No.

4 MR. FRANK: I can approach the witness.

5 THE COURT: Why don't you just approach?

6 MR. FRANK: Handing to the witness Government Exhibits
7 420 and 421 marked for identification.

8 BY MR. FRANK:

9 Q Do you recognize Government Exhibit 420 (handing)?

10 A (Peruses documents.) I do.

11 Q What is it?

12 A This is the list of typed names that was provided to James
13 Tartaglione during the consensually recorded meeting on
14 December 21st, 2003.

15 Q Directing your attention --

16 THE COURT: Speak up so they can hear you.

17 BY MR. FRANK:

18 Q Directing your attention to Government Exhibit 421, do you
19 recognize that document?

20 A Yes.

21 Q What is it?

22 A This is a piece of paper with a handwritten name on it.

23 Q And how did you obtain that piece of paper?

24 A We obtained this piece of paper. This was provided to
25 James Tartaglione at a meeting, as well.

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 MR. FRANK: Government offers Exhibits 420 and 421.

2 THE COURT: Any objection?

3 MR. GOLTZER: No, sir.

4 THE COURT: All right. Government Exhibits 420 and
5 421 are received in evidence.

6 (Government's Exhibits 420 and 421 were so marked and
7 received in evidence.)

8 MR. FRANK: May I publish 420 to the jury, Your Honor?

9 THE COURT: Sure. (Exhibit published.)

10 MR. FRANK: Can the jurors all see that?

11 BY MR. FRANK:

12 Q Agent Bonavolonta, can you see that document?

13 A (Peruses document) I can, yes.

14 Q I believe you testified that Government Exhibit 420 was
15 given to Tartaglione at a meeting on December 21st, 2003?

16 A Correct.

17 Q Who did Tartaglione meet with on that day?

18 A He met with Anthony Urso and Vincent Basciano.

19 Q Where did that meeting occur?

20 A At the Seacrest Diner in Long Island, New York.

21 Q And can you just read to us the names that appear on the
22 left side of that list?

23 A Sure. Dino Saracino, Bensonhurst; Joe Campitello, "Joe
24 Cave," Bensonhurst; Sebastian -- I can't make out the first
25 letter. It looks like "Saracino." Bensonhurst. Michaelangelo

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1 Souza, Staten Island; Carmine Baudanza, Bensonhurst; Greg
2 Marino, "Little Greg;" Frank Sturiano. There's Howard Beach
3 crossed out.

4 Then Brooklyn, Mike Catapano and Vincent Manzo,
5 Brooklyn.

6 Q For the record, could you also please read what you see on
7 the right side of that list?

8 A Yes. The letter D, and John Scameni, 1996; the letter D;
9 Tutti Francesi, 1995; the letter D, Patty DiMatteo, 1999; the
10 letter D, Patty Catalano; the letter D, Tutti Lanbadino, 1995;
11 the letter D, Sally Fusco, 2000; and the letter D, Louis
12 Malpeso, 1999.

13 Q Thank you. Directing your attention now to Government
14 Exhibit 421 in evidence. Can you read to us the name that is
15 on that piece of paper?

16 A Yes. It's John either Sacchetti or Sacchette. I can't
17 make out the last letter.

18 Q Thank you. During the course of your proactive
19 investigation, did the FBI also provide documents to
20 Tartaglione to hand over or to use during his meetings?

21 A Yes.

22 Q And did there come a time when you developed a cover story
23 for him related to those documents?

24 A We did.

25 Q What cover story did you create?

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 A We developed a cover story where Mr. Tartaglione --

2 Q You can just speak up?

3 A Sure. We developed a cover story where Mr. Tartaglione
4 would report to the individuals that he was meeting with at
5 certain meetings that he had access to a source inside the
6 United States Attorneys Office that was able to provide
7 documents relating to ongoing organized crime investigations.

8 Q Why did you develop that story?

9 A That's story was just developed as it was a ruse or an
10 investigative technique in an effort to enable these high level
11 of meetings to continue to occur, either on a weekly or
12 biweekly basis, which in the organized crime world at this time
13 during our investigation was very uncommon.

14 Q What do you mean by that?

15 A Meaning members of that level in organized crime families
16 generally, due to being very concerned about being subject of
17 investigation or being captured on surveillance, did not tend
18 to meet in person in that large of a group very often unless it
19 was necessary. So we used that investigative technique in an
20 effort to enable meetings to continue a little more frequently
21 than usual.

22 Q Was there a meeting on November 23rd 2003?

23 A Yes, there was.

24 Q Who, if you recall, did Tartaglione meet with on that day?

25 A On November 23rd, Tartaglione met with Anthony Urso and

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Bonavolonta - Direct/Frank

1 Joseph Cammarano.

2 Q Did you provide documents for Tartaglione to take to that
3 meeting?

4 A Yes, we did.

5 MR. FRANK: May I approach, Your Honor?

6 THE COURT: Yes. You want to try it again?

7 MR. FRANK: I'll be happy to try it again.

8 THE COURT: Just wait a minute. All right. Go ahead.

9 BY MR. FRANK:

10 Q Showing the witness what's been marked for identification
11 as Government Exhibit 411. Can you see that document
12 (indicting)?

13 A (Peruses document.) I can.

14 Q Can you identify that document?

15 A Yes. That is one of the documents that we had Tartaglione
16 provide to the members that attended that meeting.

17 Q Did you create that document specifically for the purpose
18 of that meeting?

19 A Yes.

20 Q Can you describe the document?

21 A It's a piece of paper with handwritten notes on it,
22 indicating the names of ranking members in the Bonanno LCN
23 Family. And alongside it, it notes that they might be subject
24 to major case fingerprints and/or photographs, and it gives a
25 date range for when that might occur.

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 MR. FRANK: Government offers Exhibit 411.

2 MR. GOLTZER: No objection.

3 THE COURT: All right, Government Exhibit 411 is
4 introduced in evidence without objection.

5 (Government's Exhibit 411 is so marked and received in
6 evidence.)

7 BY MR. FRANK:

8 Q Agent Bonavolonta, can you just read the names on that,
9 what it says on that document?

10 A Just the names?

11 THE COURT: There was a question?

12 BY MR. FRANK:

13 Q Could you just read what it says on that document.

14 A Michael Cardello, and then parentheses, major case prints
15 and photos, end parentheses; Anthony Urso, parentheses, prints
16 and photographs, end parentheses; Joseph Cammarano, Jr., it
17 looks like, parentheses, major case prints and photos, end
18 parentheses; and Louis Restivo, parentheses, prints and photos,
19 end parentheses, photos and prints for 12-1-12-5-03.

20 Q What are major case prints and photos?

21 A Major case prints are basically an intricate series of
22 fingerprints that are taken on various parts of the hands and
23 arms that are usually taken to compare against prints that
24 might be found at various violent crime scenes. And
25 photographs are just photographs of the individuals that are

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1 usually taken for intelligence purposes.

2 Q You indicated that you believed these individuals were
3 prominent figures in LCN. Could you tell us what LCN stands
4 for?

5 A La Cosa Nostra.

6 Q Thank you.

7 MR. FRANK: I'd like to show the witness what's been
8 previously marked as Government Exhibit 412 and 413.

9 THE COURT: All right.

10 BY MR. FRANK:

11 Q Showing you what's been previously marked as Government
12 Exhibit 412, do you recognize that document(indicating)?

13 A (Peruses documents.) I do.

14 Q What is it?

15 A This is an FD -- an FBI FD-302 report form.

16 Q And what's an FD-302?

17 A An FD-302 is the standard form the FBI uses to basically
18 summarize facts obtained during an investigation, an interview,
19 a witness debrief.

20 Q When are these are these types of reports generated?

21 A They're -- for the sake of these investigations, they're
22 usually generated during a witness debriefing, but they can
23 also be generated from other avenues as well.

24 Q So if you're debriefing, for example, a cooperating witness
25 would you generate an FD-302?

LISA SCHMID, CCR, RMR

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1 A Yes.

2 Q Was this FD-302 that you've identified as Government
3 Exhibit 412 generated specifically for the purpose of
4 Tartaglione's meeting on November 23rd, 2003?

5 A No.

6 Q Was it generated in the ordinary course after an actual
7 debriefing of a cooperating witness?

8 A Yes.

9 MR. FRANK: Government offers Exhibit 412.

10 MR. GOLTZER: No objection.

11 THE COURT: 412 is received.

12 (Government's Exhibit 412 is so marked and received in
13 evidence.)

14 MR. FRANK: I'm not going to publish it just yet. I'm
15 going to show him Government 413.

16 THE COURT: I'm sorry. We have a technical issue.
17 What was your last statement?

18 MR. FRANK: I intended to offer 412 and 413 just for
19 identification at the moment --

20 THE COURT: Okay.

21 MR. FRANK: -- before publishing them to the jury.

22 THE COURT: Yes. What I'd like you to do is go back
23 to showing the witness, at the witness stand, each of the
24 documents in the future, until we resolve our technical issue.

25 MR. FRANK: Certainly, Your Honor. 412, I'm offering

LISA SCHMID, CCR, RMR

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1 into evidence.

2 THE COURT: Any objection?

3 MR. GOLTZER: No.

4 THE COURT: 412, Government 412 is received in
5 evidence.

6 BY MR. FRANK:

7 Q Showing what's been marked as Government Exhibit 413 for
8 identification, do you recognize that document (indicating)?

9 A (Peruses document) I do.

10 Q What is it?

11 A This is a New York City Police Department homicide report.

12 Q And was this New York City Police Department homicide
13 report generated specifically for the purpose of Tartaglione's
14 meeting on November 23rd, 2003?

15 A No.

16 Q How did you obtain this document?

17 A This was an actual NYPD homicide report from a homicide
18 victim.

19 Q Thank you.

20 MR. FRANK: Government offers Exhibit 413.

21 MR. GOLTZER: No objection.

22 THE COURT: All right. Government Exhibit 413 is
23 received in evidence.

24 (Government's Exhibit 413 is so marked and received in
25 evidence.)

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 BY MR. FRANK:

2 Q Agent Bonavolonta, I would now like to show you and publish
3 to the jury Government Exhibit 412 that you previously
4 identified as an FD-302.

5 Are you able to read that document, Agent?

6 A (Peruses document) Yes, I am.

7 Q Can you see the numbers at the bottom?

8 A I can.

9 Q Does government 412 relate to a specific witness?

10 A Yes, it does.

11 Q Can you identify that witness from the face of the
12 document?

13 A I can. Salvatore Vitale, from the FBI source number at the
14 bottom.

15 Q Does Salvatore Vitale's name appear anywhere on Government
16 Exhibit 412?

17 A No, it does not.

18 Q How did you identify his name from the number at the bottom
19 of the page?

20 A I recognized the source number.

21 Q Does the FBI assign a source number to every cooperating
22 witness?

23 A Yes.

24 Q And it's a unique number?

25 A It's a unique number, yes.

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 Q At the time this document was generated, was Salvatore
2 Vitale, in fact, a cooperating witness?

3 A Yes.

4 Q Was this document generated following an actual debriefing
5 of Salvatore Vitale?

6 A Yes.

7 Q Could you read for the jury -- I'm going to indicate to you
8 a paragraph, two paragraphs. This paragraph and this one.
9 Could you read those paragraphs to the jury?

10 A "Approximately three years ago, Joseph Massino told the
11 individual that Vinny, in parentheses, Vinny Basciano, Bruno
12 Indelicato, and a former corrections officer had been involved
13 in shooting a man in Basciano's neighborhood. The man was
14 shot -- the man who was shot was a junky who had been overheard
15 saying he was going to kidnap Basciano's son. Word of this got
16 back to Basciano. Basciano, Indelicato and the corrections
17 officer shot the man from their vehicle. Basciano claimed he
18 has told his captain, Patty DeFilippo, but DeFilippo said
19 Basciano had not informed him of the shooting."

20 Q The document references individual. Who is "individual"?

21 A Individual is the cooperating witness that the information
22 is coming from.

23 Q And at the bottom of the document, where I'm indicating
24 with my finger, it says "Investigation on 4-30-03 at
25 undisclosed location," what is that a reference to?

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 A The date would be, would reference the date that that
2 particular interview was conducted. And undisclosed location
3 just indicates that it was done at a covert facility.

4 Q So when the paragraph you just read indicates approximately
5 three years ago, would be approximately three years before this
6 interview on April 30th of 2003?

7 A Yes.

8 Q Thank you.

9 Showing you now what's in evidence as Government
10 Exhibit 413. You have identified this as a New York Police
11 Department homicide report?

12 A Correct.

13 Q And directing your attention to the top the document, can
14 you tell the jury who the victim of the homicide was, according
15 to this report?

16 A It listed as Frank Santoro.

17 Q And what is the date of the homicide, directing your
18 attention to the date indicated right above the victim's name?

19 A February 15th, 2001.

20 Q Where did this homicide occur, according to this document?
21 What portion of New York City?

22 A Correct.

23 Q Which portion? Withdrawn.

24 Does the document indicate that it was generated by
25 the Bronx homicide task force?

LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 A Yes it does.

2 Q Would you read for the jury the paragraph marked paragraph
3 one on the document. I can zoom in if that would assist you.

4 A "On February 15th, 2001, at approximately 2140 hours, the
5 undersigned was notified by Lieutenant O'Toole, C.O., of Bronx
6 Homicide Task Force that homicide has occurred within the
7 confines of the 45th Precinct at 4212 Throgs Neck Expressway,
8 on the street. It appears the victim sustained" -- I can't
9 make out that word.

10 Q You can skip that word.

11 A "Sustained injuries with a shotgun."

12 Q Thank you. And why don't you go ahead and read paragraph
13 two and three as well.

14 A "The undersigned accompanied by Sergeant Horland at the
15 homicide task force did respond to this location and observed
16 the following."

17 Q Paragraph three.

18 A "Upon arrival, the undersigned did observe what appeared to
19 be a body under a yellow plastic wrap on the street on the
20 Throgs Neck Expressway. The wrap was placed on the body by ESU
21 because the body was in public view adjacent to the highway.
22 Discharged shotgun shells were" -- I can't make out that word
23 -- "were in close proximity to the body."

24 Q Does paragraph four provide a list of police department
25 personnel who were present at the scene of this crime scene?

LISA SCHMID, CCR, RMR

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1 A Yes.

2 Q Can you finally read paragraph five. I'm sorry.

3 A Four and five?

4 Q Just paragraph five.

5 A "As per MLIE, victim sustained four shots to the person,
6 three to the torso area and one to the head."

7 Q Thank you.

8 Directing your attention to December 21, 2003, did
9 Tartaglione have a meeting with other Bonanno Family members on
10 that day?

11 A He did.

12 Q Who did he meet with?

13 A He met with Anthony Urso and Vincent Basciano.

14 Q Did you provide certain documents for Tartaglione to turn
15 over at that meeting?

16 A Yes, we did.

17 Q Did he, in fact, do so?

18 A Yes.

19 Q Showing you now what's been marked for identification as
20 Government Exhibit 414, 415 and 416, can you identify those
21 documents? (Handing.)

22 A Government Exhibit 414 is a another FBI FD-302 report.
23 Government Exhibit 415 an FD-302 report, and Government Exhibit
24 416 is a NYPD homicide report.

25 MR. FRANK: Government offers 414, 415 and 416.

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1 THE COURT: Any objection?

2 MR. GOLTZER: You're not offering 418?

3 MR. FRANK: Just 414, 415, and 416.

4 THE COURT: All right, Government Exhibit 414, 415 and
5 416 are received in evidence, you may publish.

6 MR. FRANK: May I show you first, and publish to the
7 jury, Government Exhibit 415. Which you have identified as a
8 FBI FD-302.

9 BY MR. FRANK:

10 Q Is the same FBI FD-302 that you previously identify as
11 Government Exhibit 412?

12 A Yes, it is.

13 Q It's another copy of that same document that you provided
14 to Tartaglione on December 21st?

15 A Correct.

16 Q Thank you.

17 I'm showing you know what's in evidence as Government
18 Exhibit 416. Do you recognize that document to be the same
19 Frank Santoro homicide report that was previously offered as
20 Government Exhibit 413?

21 A (Peruses document) Yes, it is.

22 Q And this was just another copy that you provided to
23 Tartaglione?

24 A Correct.

25 Q Showing you now what's in evidence as Government Exhibit

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1 414, you identified this as FD-302 as well?

2 A Yes.

3 Q Can you read the numbers at the bottom of that report?

4 A I can.

5 Q First of all, was Government Exhibit 414 created for the
6 purpose of this meeting on December 21, 2003, or was it an
7 actual FBI FD-302?

8 A It was an actual FD-302.

9 Q Does it relate to a specific cooperating witness?

10 A Yes, it does.

11 Q Based on the numbers at the bottom of the page, can you
12 identify which witness it relates to?

13 A Yes. It relates to Richard Cantarella.

14 Q And was Government Exhibit 414 generated by the FBI
15 following a debriefing of Richard Cantarella?

16 A Yes.

17 Q At the top of the document and on several of the prior
18 documents, in addition to the government exhibit number for
19 purposes of this trial, there's another government exhibit
20 number.

21 A Correct.

22 Q Do you see that?

23 A Yes.

24 Q Did you place that government exhibit number there?

25 A Yes.

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1 Q Why?

2 A That was placed there so that when James Tartaglione
3 provided it, it would add credibility that it was actually
4 obtained from a source within the U.S. attorney's office.

5 Q Thank you.

6 Directing your attention now to this paragraph that I
7 have just indicated on your screen, I'm going to zoom in just a
8 little bit. Can you read that paragraph for the record?

9 A "Vinny from the Bronx, in approximately early 2002, at Casa
10 Blanca restaurant, individual and Vinny from the Bronx, Vincent
11 Basciano, had a discussion about Basciano's promotion to
12 captain in the Bonanno Family. During the discussion, Basciano
13 stated that he needed to be more patient now that he had been
14 promoted to captain. As an example of the situation where he
15 needed to show patience, Basciano told the individual about an
16 argument he had with a junkie whose brother was a made guy with
17 the West Side Genovese LCN family. Basciano wanted to kill the
18 junky and asked Joseph Massino, Bonanno Family boss, for his
19 permission. Basciano was going to use a motorcycle to carry
20 out the hit. Massino denied Basciano's request because the
21 junky's brother was a friend. Sometime later, Massino told the
22 individual about denying Basciano permission to kill the junky.
23 Q Thank you. And where this document refers to statements by
24 individual, who was individual in this case?

25 A The individual is the cooperating witness who was being

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1 debriefed.

2 Q So Richard Cantarella?

3 A Yes.

4 Q Thank you.

5 MR. FRANK: And now I'd like to show the witness
6 what's been marked for identification as Government Exhibits
7 417, 418, which is a two-page document, and 419.

8 MR. GOLTZER: May we have a sidebar, Your Honor?

9 THE COURT: Sure.

10 (Continued on the next page.)

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LISA SCHMID, CCR, RMR

Sidebar

1 (Sidebar.)

2 MR. GOLTZER: The defense is going to object to
3 Government Exhibit 419 for identification. It is a two-page
4 report of an investigation from the Drug Enforcement
5 Administration, which refers in the body of the third
6 paragraph, to the blue thunder case and Mr. Basciano's
7 involvement in it. It is an allegation that he and Mr. Donato
8 had sixty to 80 units of heroin at an unknown location. It is
9 extremely prejudicial, and we object under 403.

10 If they want to bring in any part of this document,
11 they have to redact, in our opinion, paragraph nine, which
12 refers to the blue thunder case. Parenthetically, Mr. Basciano
13 was acquitted of those charges. He was not given notice under
14 404(b) that the Government intended to prove those up at this
15 trial. So we were assuming that that would come in to the
16 extent that they needed to show the documents that were
17 provided to Mr. Tartaglione, to provide to Mr. Basciano.
18 That's already been done with the documents related to the
19 Santoro murder. This particular document is cumulative and it
20 denies Mr. Basciano a fair trial and due process of law.

21 MR. FRANK: Your Honor, number one, we don't intend to
22 prove up anything about the blue thunder case, pursuant to
23 404(b) or for any other rule.

24 These documents have literally been in the defense's
25 possession for years. They were previously introduced at both

Sidebar

1 of Basciano's prior trials in exactly the same context with
2 exactly the same witness. And the defense has been on notice
3 of them for literally years.

4 The document is going to be used for two purposes.
5 One, Your Honor, because as a matter of fact, it was given to
6 the witness and presented to the people that he met with on
7 January 21, 2004; and two, because the document references both
8 Basciano and Anthony Donato, and Basciano reads from the
9 document and comments on Anthony Donato during the course of
10 that conversation, which has also been in the defense
11 possession for literally years.

12 MR. GOLTZER: It really doesn't matter, most
13 respectfully, to my adversary how long we have been in
14 possession of these documents, nor were we bound by what
15 happened at the prior two trials.

16 This is a different trial, with a different calculus
17 in terms of what need or need not be proven. In this
18 particular trial, Santoro was not the charge that is sufficient
19 to the jury as a 404(b), as part of the enterprise or relation
20 of the trust with Cicale, according to Your Honor's rulings.

21 This particular document is unnecessary, nor is there
22 going to be any dispute that Mr. Basciano -- Mr. Donato, there
23 has already been evidence that Mr. Donato's car was front of
24 Mr. Basciano's house.

25 The probative value of this is minimal. The prejudice

LISA SCHMID, CCR, RMR

Sidebar

1 is overwhelming, Judge. It has to be redacted. If they want
2 to leave in Donato's name and Basciano's name and redact the
3 rest of it out, I have no objection to that.

4 MR. FRANK: If I could respond, Your Honor?

5 With respect to the relevance, it is relevant to the
6 narrative. It's important to complete the story.

7 With respect to fact that the defense has had this,
8 has been on notice of it for years, the relevance of that is, I
9 would respectfully submit, this is a transparent, last minute
10 attempt to disrupt the flow of the Government direct
11 examination during the course of the examination, when the
12 defense had ample opportunity to raise this issue earlier.

13 MR. GOLTZER: That is simply nonsensical. We're not
14 trying to disrupt the flow. It is a valid objection to an
15 extraordinarily prejudicial exhibit.

16 Speaking in terms of disrupting flows, Mr. Jasper made
17 many objections that were no doubt designed to do that.

18 THE COURT: (Peruses document.)

19 MR. GOLTZER: In Basciano's second trial, there were
20 actually charges in the case, I'm informed by Ms. Stafford.
21 She refreshes my recollection.

22 THE COURT: The references to the blue thunder and the
23 heroin are out. So if you want to redact, you can.

24 MR. GOLTZER: Thank you, Judge.

25 THE COURT: You want to wait? Did you want to discuss

Sidebar

1 what should be redacted?

2 MS. MERKL: With regard to that paragraph, Your Honor,
3 we wanted to just understand the Court's ruling. Obviously,
4 it's very important to keep Mr. Donato in the paragraph. So
5 just if we could have some understanding of exactly what Your
6 Honor's referring to.

7 MR. FRANK: If Your Honor's referring to the
8 highlighted portions, we will -- we're prepared to remove the
9 references to heroin. But the defense has also highlighted the
10 sentence or portion of the sentence which simply says that
11 Donato was known to be associated with Basciano or a Bonanno
12 soldiers, at least that portion of the sentence should be left
13 in.

14 MR. GOLTZER: That's the only thing that should be
15 left.

16 THE COURT: That should be left in. All the
17 references to blue thunder and the heroin activities are out.

18 MR. FRANK: Your Honor, if we could have a two-minute
19 recess to prepare a redacted version. We've got a partially
20 redacted version.

21 THE COURT: Okay. Let me ask this: How much more do
22 you have for this witness?

23 MR. FRANK: I don't have that much more of this
24 witness.

25 MR. GOLTZER: A little bit of cross.

LISA SCHMID, CCR, RMR

Sidebar

1 THE COURT: Then who is the next witness?

2 MR. FRANK: Tartaglione.

3 MR. GOLTZER: There's also issues as to a couple of
4 pages during Tartaglione's tapes. That shouldn't be a very
5 long argument. What's convenient --

6 THE COURT: It's going to be before Tartaglione comes
7 in.

8 MR. GOLTZER: That's why I raised it.

9 MR. FRANK: Your Honor, the relevance is not the
10 length of the argument. The relevance is the fact that once
11 again --

12 THE COURT: I understand your point. I understand.

13 But the only thing -- all I'm facing now is this. So
14 why don't you just have the jury stand fast. You all figure
15 out, agree upon the language that's coming out and remove it
16 and then it will be admitted as redacted.

17 MR. GOLTZER: Okay. We agreed to the lines.

18 THE COURT: You can --

19 MR. GOLTZER: One second.

20 MR. FRANK: I just don't want the jury to see the
21 Government redacting.

22 MR. GOLTZER: As long as you offer it and not publish
23 it.

24 MR. FRANK: We can do that.

25 THE COURT: Okay. And we'll take care of that at a

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Sidebar

1 break.

2 MR. GOLTZER: And I won't raise that issue in front of
3 the jury. It's understood.

4 THE COURT: Okay. Thank you.

5 (Sidebar ends.)
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LISA SCHMID, CCR, RMR

Bonavolonta - Direct/Frank

1 (In open court.)

2 MR. FRANK: May I continue, Your Honor?

3 THE COURT: Yes, you may.

4 BY MR. FRANK:

5 Q Again, Agent Bonavolonta, if I could provide with you
6 Government Exhibits 417, 418, and 419 for identification. Can
7 you identify those documents? (Handing.)

8 A (Peruses documents.) Yes. Those are documents that were
9 also provided at one of the meetings.

10 Q And Government Exhibit 418, what kind of document is that?

11 A Government Exhibit 418 is a DEA6 form which is the DEA's
12 equivalent to the FBI's FD-302.

13 Q And Government Exhibit 419, what is that document?

14 A Government Exhibit 419 is an NYPD homicide report.

15 Q Thank you.

16 MR. FRANK: If I could have the documents back?

17 THE WITNESS: (Complies.)

18 MR. FRANK: The Government offers 417, 418, and 419,
19 subject to the Court's ruling.

20 THE COURT: All right. Any objection, subject to my
21 ruling at sidebar?

22 MR. GOLTZER: No.

23 THE COURT: All right. Government Exhibit 417, 418
24 and 419 are received in evidence.

25 You may proceed.

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Bonavolonta - Direct/Frank

1 (Government's Exhibits 417, 418, 419 so marked and
2 received in evidence.)

3 MR. FRANK: Your Honor, I would like to publish to the
4 jury the second page of Government Exhibit 418. I don't
5 believe the defense has any objection to page two of 418.

6 MR. GOLTZER: No.

7 THE COURT: All right. Okay.

8 (Exhibit published.)

9 BY MR. FRANK:

10 Q Showing you page two of Government Exhibit 418, can you
11 read for the jury the names at lines 16 and 17 of that
12 document?

13 A Anthony Donato and Vincent Basciano.

14 Q Thank you.

15 I believe you testified these documents, 417, 418 and
16 419, were provided to Tartaglione in anticipation of the
17 January 18, 2004 meeting?

18 A Correct.

19 Q Besides these documents, did you give Tartaglione anything
20 else for that meeting?

21 A Yes. He was also provided with a bag of diamonds and also
22 gold Krugerrand coins.

23 Q What are gold Krugerrand coins?

24 A Just valuable gold coins, usually emanating out of South
25 Africa.

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Bonavolonta - Direct/Frank

1 Q What was the reason that you gave Tartaglione the diamonds
2 and gold Krugerrands?

3 THE COURT: I'm sorry. It's not on?

4 JUROR: Just one.

5 THE COURT: Just -- all right, use the main screen, if
6 you can, and we'll check it at the break. Thank you.

7 THE WITNESS: Sir, could you repeat the last question?

8 BY MR. FRANK:

9 Q What was the reason that you gave Tartaglione the diamonds
10 and gold Krugerrands on January 18th, 2004?

11 A Similar to the documents, it was another meeting where if
12 he felt comfortable bringing it up at the meeting, it was --
13 they were items that could be used for him to generate more
14 conversation in potentially subsequent meetings.

15 (Continued on the next page.)
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Bonavolonta - Cross/Goltzer

1 DIRECT EXAMINATION

2 BY MR. FRANK (continuing):

3 Q After January 18, 2004 did you send Tartaglione to any club
4 meetings with members of organized crime?

5 A After the January 18 meeting? No.

6 Q Of the meetings that Tartaglione had during the time that
7 he was proactively cooperating with the government, how many
8 meetings did he have with the defendant, Vincent Basciano?

9 A Two.

10 MR. FRANK: Two.

11 Thank you. No further questions.

12 THE COURT: Cross-examination?

13 MR. GOLTZER: Thank you, your Honor.

14 CROSS-EXAMINATION

15 BY MR. GOLTZER:

16 Q Good afternoon, sir. How are you?

17 A Good afternoon. Thank you. I'm well.

18 Q You mentioned some names of people that were recorded with
19 your direction and under your supervision by Mr. Tartaglione.
20 For the jury's benefit I'm going to ask you who some of those
21 people are as a result of what you learned during your
22 investigation. Okay?

23 A Sure.

24 Q John Palazollo, who was he?

25 A John Palazolla, at the time, was a made member of the

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1 Bonanno Organized Crime Family.

2 Q Sal Volpe?

3 A Was at the time as an associate in the Bonanno Family.

4 Q Vinny the General Barbieri?

5 A Was any combination of a made member/acting captain in the
6 Bonanno Family at the time.

7 Q Louie DeCicco?

8 A Made member of the Bonanno Family.

9 Q Was he also known as Louie Electric?

10 A Correct.

11 Q Or Louie the Electrician?

12 A Yes.

13 Q Anthony Urso?

14 A Anthony Urso, captain and then acting boss at that time,
15 acting street boss at that time in the Bonanno Family.

16 Q By "acting street boss," what do you mean by that?

17 A Well, at that time we had arrested the official boss of the
18 family, Joseph Massino. So while he was in prison, Anthony
19 Urso was the acting boss of the Bonanno Family.

20 Q Does that mean that he was the highest-ranking member of
21 the family on the street?

22 MR. FRANK: Objection.

23 THE COURT: What's the objection?

24 MR. FRANK: He is not testifying as an expert, your
25 Honor.

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1 THE COURT: Sustained.

2 BY MR. GOLTZER:

3 Q Joe Cammarano?

4 A Joe Cammarano at the time was a high-level captain in the
5 Bonanno Family.

6 Q And Vincent Basciano?

7 A Was at the time a high-level captain in the Bonanno Family.

8 Q Now, there were two occasions upon which there was a
9 malfunction of your equipment, is that correct, over the course
10 of the several months?

11 A I remember there being at least one malfunction.

12 Q Wasn't there a malfunction on November 23 of 2003?

13 A To my recollection, no, but I know we usually would
14 document that, either in a consensual 302, if there is
15 something to refresh my recollection.

16 Q When was the malfunction that you recall?

17 A I cannot recall the exact date or which meeting, but I know
18 there was a meeting where a device did malfunction.

19 MR. GOLTZER: May I have a moment, judge?

20 THE COURT: Yes, you may.

21 Q Mr. Tartaglione came in -- well, you went to Florida to see
22 him in response to a message from him; is that correct?

23 A A message relayed by him through an AUSA, yes.

24 Q That was after a gentleman by the name of Salvatore Vitale
25 had been arrested and begun to cooperate?

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1 A Correct.

2 Q Salvatore Vitale was the official boss of the family?

3 MR. FRANK: Objection.

4 Q Official underboss of the family when he was arrested.

5 A Correct.

6 THE COURT: That's overruled.

7 MR. GOLTZER: Thank you, your Honor.

8 BY MR. GOLTZER:

9 Q You went through a series of proffers; is that correct?

10 A With?

11 Q With Mr. Tartaglione.

12 A Correct.

13 Q Contemporaneously with the proffers there were recordings
14 going on; is that correct?

15 A Correct.

16 Q That's somewhat unusual, isn't it?

17 A No.

18 Q Don't you usually have a series of proffers before someone
19 enters into a cooperation agreement or formally proactively
20 cooperates?

21 A Not necessarily.

22 Q In this particular case you decided you, the plural you,
23 decided to utilize Mr. Tartaglione's efforts recording people
24 while he was proffering; is that correct?

25 A Correct.

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1 Q During the proffer session, Mr. Tartaglione admitted a
2 number of crimes to you; is that correct?

3 A Correct.

4 Q Among the crimes that he admitted to you did he admit a
5 number of murders?

6 MR. FRANK: Objection.

7 THE COURT: Sustained.

8 Q Was Mr. Tartaglione taken into custody after you met with
9 him in Florida?

10 A No, he was not.

11 Q Do you know whether Mr. Tartaglione is in custody today?

12 MR. FRANK: Objection.

13 THE COURT: Sustained.

14 Q During the time Mr. Tartaglione was recording things for
15 you, was he taken into custody at all?

16 A No, otherwise he wouldn't be able to make recordings.

17 Q You said he was never indicted; is that correct?

18 A Correct.

19 Q Is that because he waived indictment and pled guilty to
20 some sort of an information, if you know?

21 A Yeah, he did plead guilty, yes.

22 Q And after he pled guilty do you know whether he was
23 incarcerated or bought out on bail?

24 MR. FRANK: Objection.

25 THE COURT: Sustained.

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1 Q After he pled guilty was he still making tape recordings
2 for you?

3 A Yes, he did.

4 Q After he pled guilty, in order to make those tape
5 recordings he had to be at liberty; is that correct?

6 A Correct.

7 Q I'm going to refer you to page 2132 of a trial at which you
8 testified in this courthouse.

9 Were you asked --

10 THE COURT: I'm sorry. Do we have a 3500 number?

11 MR. GOLTZER: JD-9A, 3500-JD-9A.

12 THE COURT: Okay. And the page?

13 MR. GOLTZER: 2132. 2,132.

14 MR. FRANK: May I have a moment?

15 THE COURT: Yes, of course.

16 (Pause.)

17 MR. FRANK: Okay. Thank you, your Honor.

18 MR. GOLTZER: Are you ready, judge?

19 THE COURT: Okay.

20 MR. GOLTZER: Thank you, judge.

21 BY MR. GOLTZER:

22 Q Were you asked these questions and did you give these
23 answers at page 2132 of a prior proceeding:

24 "Question: Were there ever a time that
25 Mr. Tartaglione" --

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1 MR. FRANK: Objection, your Honor.

2 THE COURT: What?

3 MR. FRANK: The witness has not been shown any
4 document to refresh his recollection.

5 MR. GOLTZER: I'm not trying to refresh his
6 recollection.

7 THE COURT: No. That's okay. Go ahead.

8 MR. GOLTZER: Thank you.

9 MR. FRANK: Objection, your Honor. There is no prior
10 inconsistency.

11 MR. GOLTZER: It's not necessary. If he doesn't
12 recall, it's sufficient foundation to ask him a question.

13 THE COURT: Yes. Go ahead.

14 MR. GOLTZER: Thank you.

15 BY MR. GOLTZER:

16 Q "Question: Were there ever a time where Mr. Tartaglione
17 was wearing a device that the device malfunctioned?

18 "Answer: Yes. The device malfunctioned on two
19 occasions.

20 "Question: What occasions were those?

21 "Answer: November 23, 2003 -- 2003, and December 14,
22 2003."

23 Did you give those answers to those questions at a
24 prior trial?

25 A I'm judging it by what you are reading to me. I don't

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Bonavolonta - Cross/Goltzer

1 specifically recall that specific answer. If you could show me
2 something.

3 MR. GOLTZER: May I approach the witness, judge?

4 THE COURT: Well, he doesn't remember. So if you read
5 from a transcript.

6 MR. GOLTZER: If there is no dispute about the
7 transcript.

8 MR. FRANK: The government will stipulate that the
9 device malfunctioned on November 23, 2003.

10 THE COURT: And on December 14.

11 MR. FRANK: And on December 14, 2003.

12 THE COURT: Okay. Let's move on. Thank you very
13 much.

14 BY MR. GOLTZER:

15 Q It's now been agreed between the parties that there have in
16 fact been two malfunctions.

17 Do you understand that, sir?

18 A I do.

19 Q Do you recall on November 23, 2003 what was wrong with your
20 equipment?

21 A I do not.

22 Q Did you ever find out or try to find out?

23 A I do not know which one. I know one malfunction that I do
24 recall was that the actual wires were not properly fastened in
25 at the time and they became dislodged, which made the recording

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Bonavolonta - Cross/Goltzer

1 somewhat inaudible.

2 Q And that's something that's correctable the next time out,
3 I take it?

4 A Correct.

5 Q You just had to make sure the wires were properly fastened
6 the next time you did a recording?

7 MR. FRANK: Objection, your Honor.

8 THE COURT: Sustained.

9 Q Was that the same problem you had on December 23?

10 A I don't recall which date was which, so I can't answer that
11 question.

12 Q Okay. But it did malfunction on two occasions; is that
13 right?

14 MR. FRANK: Objection, asked and answered.

15 THE COURT: Sustained.

16 Q The documents that you provided to Mr. Basciano related to
17 the homicide of a gentleman by the name of Frank Santoro; is
18 that correct?

19 MR. FRANK: Objection. It misstates the testimony.

20 THE COURT: Sustained.

21 Q Did you provide documents to the -- Mr. Tartaglione related
22 to the homicide of Frank Santoro?

23 A Correct, yes.

24 Q And that homicide took place, according to your
25 documentation, which was authentic, on February 15, 2001; is

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Bonavolonta - Redirect/Frank

1 that right?

2 A That was the date on the report.

3 Q None of the documents that you provided with respect to
4 meetings with Mr. Basciano had anything to do with Randy
5 Pizzolo, did they?

6 A I would have to look. I mean there was a couple -- there
7 was that one lengthy DEA-6 report that I didn't have the
8 ability to read here. So I can't answer that.

9 Q You have no conscious memory of having provided any
10 documents to Mr. Tartaglione about someone named Randy Pizzolo,
11 do you?

12 MR. FRANK: Objection.

13 THE COURT: You may answer.

14 A That I don't recall. I would have to have something to
15 refresh my recollection.

16 MR. GOLTZER: Thank you.

17 THE COURT: Anything else from the government?

18 REDIRECT EXAMINATION

19 BY MR. FRANK:

20 Q At those two meetings where the device malfunctioned, was
21 the Defendant Vincent Basciano present at either one, to your
22 knowledge?

23 A For those dates, he was not.

24 MR. FRANK: Thank you. No further questions.

25

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Bonavolonta - Recross/Goltzer

1 RECROSS-EXAMINATION

2 BY MR. GOLTZER:

3 Q Do you know whether the people who were present at that
4 meeting were discussing Mr. Basciano in his absence?

5 A I do know that in some of those administration meetings
6 that were recorded Vincent Basciano's name was mentioned, yes.

7 Q But we don't have an accurate reproduction of what it was
8 that was said about Mr. Basciano at either of those two
9 meetings?

10 MR. FRANK: Objection.

11 THE COURT: Sustained.

12 Q You mentioned administration meetings.

13 What do you mean by that?

14 MR. FRANK: Objection, beyond the scope of redirect.

15 MR. GOLTZER: It's in response to his answer. He just
16 mentioned administration.

17 THE COURT: Sustained.

18 MR. GOLTZER: Nothing further.

19 THE COURT: Anything else from the government?

20 MR. FRANK: No. Thank you, your Honor.

21 THE COURT: All right. The witness is excused. You
22 may stand down, sir.

23 All right. We are going to take a brief intermission,
24 two minutes, and then we will resume. All rise for the jury.

25 (Jury exits.)

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1 THE COURT: All right. You may be seated. We have a
2 slight technical problem having to do with either one or both
3 of the monitors facing the public in that I notice that when we
4 showed a document to the witness that was not to be shown to
5 the jury, it was still coming up on the monitor back there. So
6 that has to be fixed. So for the present, just -- you will
7 have to come up here, and we will fix the problem after trial
8 today or during a break.

9 MR. FRANK: Thank you, your Honor.

10 THE COURT: All right. So we can't use the -- can't
11 use the ELMO to show a document to the witness only.

12 MR. FRANK: Thank you, your Honor.

13 THE COURT: Make sure you show the document to the
14 defense so the defense knows what the document is before you
15 show it to the witness. All right?

16 MR. FRANK: Thank you. If I may, your Honor, with
17 respect to Government Exhibit 418, when that document is
18 reintroduced we would ask that the jury be given a limiting
19 instruction at that time consistent with the court's prior
20 limiting instruction in a similar circumstance, that they not
21 speculate on what's missing from the document.

22 THE COURT: That's fine. When it's -- when you are
23 ready to introduce it.

24 MR. FRANK: We may not even get to it today.

25 THE COURT: Yes. That's fine. All right.

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1 Are we ready for the witness, or should we take a
2 five-minute break?

3 MR. FRANK: If we could take a five-minute break, that
4 would be great.

5 THE COURT: Yes, five-minute break.

6 MR. FRANK: Thank you.

7 (Recess.)

8 THE COURT: All right. Please be seated, everybody.

9 MR. GOLTZER: Your Honor --

10 THE COURT: Hold on. I'm waiting for your client.

11 (Pause.)

12 (Defendant present.)

13 THE COURT: Let's go on the record.

14 MR. FRANK: Your Honor, the redacted document,
15 redacted version of Government Exhibit 418, has been labeled
16 Government Exhibit 418-R. The defense will agree to the
17 introduction of that version by stipulation.

18 MR. GOLTZER: No problem, judge.

19 THE COURT: All right. 418-R is received in evidence.

20 (Government Exhibit 418-R so marked.)

21 MR. GOLTZER: We have advised the government, and they
22 seem to have no problem, that Agent Bonavolonta will be
23 required for brief direct examination on the defense case. It
24 was something well beyond the scope of his examination, but I
25 anticipate that we will need him. They have no problem with

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1 that.

2 MR. FRANK: I have no problem as to his availability.
3 I haven't received an offer of proof.

4 MR. GOLTZER: Right now I'm concerned about his
5 availability, and when the time comes, we will give you an
6 offer of proof.

7 MR. FRANK: I believe he is traveling.

8 MR. GOLTZER: Let me know, and I can call him out of
9 order if there is a problem.

10 MR. FRANK: He is good. He is back.

11 MS. MERKL: He is back from his trip.

12 THE COURT: All right. Now, I just need to clarify
13 something. In the defense's response to the 404(b) motions
14 in limine by the government, the defense made a representation
15 to the court that the court relied on. The defense stated at
16 page 4 of its brief, "To assist the court in its sensitive
17 gate-keeping function and necessary balancing of competing
18 interests, pursuant to Rules 401, 403, and 404(b), the defense
19 wishes to make it very clear that the following will not be
20 contested at the upcoming trial."

21 I will just read all four bullets. I'm only really
22 concerned about the fourth.

23 The existence of the enterprise the Bonanno Crime
24 Family, is the first.

25 The second is the Bonanno Crime Family's involvement

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1 in racketeering activity, is the second.

2 Then, the Bonanno Crime Family's effect on commerce,
3 is the third.

4 And the fourth, is Basciano's rank and position within
5 the Bonanno Family up to the time of his November 19, 2004
6 arrest for the charged crimes.

7 MR. GOLTZER: Right.

8 THE COURT: So anything having to do with -- that's
9 raised, unless you think it's inaccurate with regard to his
10 ascension, if you will, through the ranks of the Bonanno Family
11 is not the subject, is not contested in this litigation,
12 correct?

13 MR. GOLTZER: Correct. The first three I don't think
14 there is any issue.

15 THE COURT: Well, no. I ruled based upon your
16 representation. I don't care what you think today. I'm just
17 telling you if you think that this is not -- this is not your
18 position, I'm going to go back and reconsider my rulings.

19 MR. GOLTZER: Of course it's my position, judge, but I
20 wanted to explain to you exactly what's happening. We are not
21 backing off.

22 Basciano was, up until the time of his arrest, the
23 acting boss of the family. Joseph Massino has opened up a
24 question of when that occurred. Basciano was an associate, a
25 member. We are not contesting that he was an associate, a

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1 member, a captain, and an acting boss. No one is contesting
2 that up until the time of his arrest.

3 Massino and the government raised the issue of when
4 and how he ascended to the position of acting boss, but there
5 is no issue that he was the acting boss. We are not going back
6 on my motion, on my response.

7 THE COURT: I think it also came up in the context of
8 the photograph of Mr. Basciano when he was 20 years old at a
9 wedding, where the implication was he really wasn't involved in
10 anything. He just drove the car to bring all these mobsters to
11 the wedding.

12 MR. GOLTZER: It was 30 years ago.

13 THE COURT: I don't care. But the point is -- if your
14 point is that he didn't have anything to do with it then, then
15 I have to go back and figure out whether there is some
16 request --

17 MR. GOLTZER: No.

18 THE COURT: -- for 404(b) evidence that would prove
19 that he was involved then.

20 MR. GOLTZER: It had to do with his relationship with
21 Trinchera. We weren't trying to in any way imply that he
22 wasn't associated. He was an associate at that time, and we
23 concede that.

24 THE COURT: I'm just pointing that out, because if we
25 are going to start backtracking and the issue becomes whether

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1 he was actually actively involved during this period, then we
2 have to go back and figure out whether there is some more
3 evidence that could possibly or appropriately be admitted as
4 404(b) evidence. That's all I'm saying.

5 MR. GOLTZER: That was not the point of the question.
6 There is no backtracking. We put it in writing, we understood
7 it when we did it, and we abide by it.

8 THE COURT: I'm just reminding you.

9 MR. GOLTZER: I have no problem with that. And I'm
10 delighted to be reminded, but my position is consistent. So is
11 Mr. Jasper's.

12 THE COURT: All right.

13 Now, what is this objection to part of the James
14 Tartaglione transcript? Is there some issue?

15 MR. GOLTZER: Yeah. I want to preserve the record at
16 pages 30 to 33 of the second conversation that the government
17 is introducing into evidence, that there is a bit of a
18 hypothetical conversation between Mr. Tartaglione and
19 Mr. Basciano, which the court may recall that had to do with --
20 if you have four or five people you can trust, I don't have to
21 tell people what I'm doing as long as it doesn't involve a
22 friend. So from Basciano and Mr. Tartaglione, by the way, is
23 at some point encouraging the conversation.

24 I don't know why the government needs that particular
25 piece. So I want to object on 404 -- 3 grounds, on relevance

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1 grounds, that the probative value is far out -- substantially
2 outweighed by the prejudice. It is not relevant to the Pizzolo
3 charge most certainly, which is a narrow conspiracy and
4 substantive count contained in the indictment.

5 It again opens up his propensity to violence, and
6 that's my objection.

7 THE COURT: Yes?

8 MR. FRANK: Your Honor, first of all, it's at page 31
9 of the first conversation, December 21. And it is absolutely
10 essential and critical to the government's response to the
11 arguments that the defense has made that concerning whether the
12 murder of, the sanctioning of the murder of Randy Pizzolo. The
13 quote that Mr. Goltzer is referring to is I believe --

14 MR. GOLTZER: It's from page 30 to 33. It's a
15 three-page conversation. The government got it right, it's the
16 December 21 conversation.

17 MR. FRANK: I don't know what exactly he wants to
18 excise.

19 THE COURT: Wait a minute. When was Mr. Basciano and
20 his team provided with this transcript? Was it in the last
21 case?

22 MR. FRANK: Yes.

23 THE COURT: And the one before that?

24 MR. FRANK: Yes, your Honor.

25 THE COURT: Huh. Well, I'm glad we waited until ten

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1 seconds before Mr. Tartaglione walks into the courtroom to be
2 questioned, to raise a 403 issue.

3 MR. GOLTZER: As I indicated earlier this morning, I
4 wanted to preserve the record.

5 THE COURT: You can preserve the record.

6 MR. GOLTZER: There were prior rulings.

7 THE COURT: But I want to preserve the record also
8 that you had adequate opportunity to raise this issue for
9 years, years. And it's never been raised, although you have
10 made extensive submissions to the court on these issues. It's
11 never been raised and it's -- I'm not going to start looking
12 into this after two trials and all this preparation for this
13 trial.

14 It's just not -- it's just not acceptable to present
15 this to the court at the 11th hour, you know, 59th minute, 59th
16 second, when a cooperating witness is waiting to come in and
17 the jury is in the jury room waiting to hear what the witness
18 has to say.

19 MR. GOLTZER: I'm not even sure they are going to get
20 to it this afternoon.

21 THE COURT: That's not my point, Mr. Goltzer. You
22 have to understand, you have made extensive objections to many
23 items the government has sought to put into evidence, and the
24 court has considered all of them. Some of your objections have
25 been upheld and some have been denied; but, you know, you have

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1 had opportunities beyond anyone's reasonable expectation,
2 frankly.

3 MR. GOLTZER: I'm not disputing that, judge, and,
4 quite frankly, if I can be very up front with the court, I
5 anticipated a negative ruling, consistent with prior rulings in
6 the case; and I'm just preserving the record.

7 THE COURT: I want to make it a point, let me preserve
8 the record, that if you had brought this to my attention six
9 months ago or eight months ago or even three weeks ago, it
10 would have provided the court with an opportunity to revisit
11 the issue and not simply dismiss you out of hand. But at this
12 point, with three lawyers and prior to that with four lawyers
13 on this case, you had many opportunities to bring this to the
14 court's attention or to bring it to the court's attention
15 again. You didn't do it. And so, it's disingenuous to say I
16 want to preserve my rights when you made a conscious decision
17 not to, you know, revisit or visit this issue when you -- when
18 I would have had the opportunity to give it careful
19 consideration.

20 I'm not going to stop dead in my tracks at the last
21 minute because you want to make a record. Okay. It's on the
22 record. But I -- I'm -- I strongly admonish you not to be
23 bringing me stuff, you know, in a situation like this. It's
24 not fair.

25 It's also not fair to the other side, it's not fair to

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1 the court, and I dare say, you have had -- you have had many
2 opportunities to read, listen to, and discuss these recordings.
3 Thank you.

4 MR. GOLTZER: Thank you, judge.

5 THE COURT: Bring him in, please.

6 Mr. Frank, can we get rid of the item that's on the
7 ELMO right now?

8 MR. FRANK: Yes.

9 THE COURT: Thank you.

10 Who is going to direct?

11 MR. FRANK: I'm sorry, judge?

12 THE COURT: Are you examining the witness?

13 MR. FRANK: I am, your Honor.

14 THE COURT: How long do you think your direct is going
15 to be?

16 MR. FRANK: Well, there is a portion, as with
17 Mr. Massino, there is a portion without the tapes and there is
18 a portion with the tapes. We may get to the tape today. I'm
19 not sure.

20 THE COURT: Okay.

21 MR. FRANK: The tapes themselves, the first tape is
22 about an hour and 45 minutes. The second tape is short. It's
23 about a half hour.

24 THE COURT: If we get to 5:45 and you haven't started
25 the tapes, we will just put it over to Monday.

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1 MR. FRANK: Thank you, your Honor.

2 (Mr. Tartaglione took the witness stand.)

3 THE COURT: Bring in the jury.

4 (Jury enters.)

5 THE COURT: The witness will remain standing.

6 Everyone else may be seated.

7 The government may call its next witness.

8 MR. FRANK: Thank you, your Honor. The government
9 calls James Tartaglione.

10 THE CLERK: Sir, raise your right hand.

11 JAMES TARTAGLIONE, called as a witness, having been
12 first duly sworn, was examined and proceeded to
13 testify as follows:

14 THE CLERK: Please have a seat and just state and
15 spell your full name for the record.

16 THE WITNESS: James Tartaglione.

17 THE CLERK: Please spell your last name.

18 THE WITNESS: T-A-R-T-A-G-L-I-O-N-E.

19 THE COURT: Okay. You may inquire.

20 MR. FRANK: Thank you, your Honor.

21 DIRECT EXAMINATION

22 BY MR. FRANK:

23 Q Sir, how old are you?

24 A Seventy-three.

25 Q If you could speak up and speak into the microphone, I

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1 would appreciate it.

2 Where did you grow up?

3 A Brooklyn, New York.

4 Q Did you have a nickname?

5 A Louie.

6 Q How far did you go in school?

7 A Fifth to sixth grade.

8 Q Have you ever served in the United States military?

9 A Yes.

10 Q What branch?

11 A The Army.

12 Q When were you in the Army?

13 A '56 to '58.

14 Q What rank did you hold?

15 A Private E3.

16 Q Did there come a time when you were discharged from the
17 Army?

18 A Yes.

19 Q What kind of a discharge did you receive?

20 A Honorable.

21 Q After you were discharged from the United States Army, did
22 you get a job?

23 A Yes.

24 Q What job did you get?

25 A I got a job as a packer.

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Tartaglione - Direct/Frank

1 Q A packer?

2 A A packer.

3 Q For what kind of company?

4 A An electrical company. They made fluorescent fixtures.

5 Q What other jobs have you held, legitimate jobs?

6 A I was a welder for a marine lighting fixture company, and

7 then from there I went to street lighting. I worked

8 construction. And after construction, I became a foreman.

9 Q Did you also work for a company that manufactured toilet
10 seats?

11 A Yes.

12 Q Were you a member of a union?

13 A Yes.

14 Q What union were you a member of?

15 A Local 3.

16 Q Approximately how many years were you a member of Local 3?

17 A Up to this point, about 50 years.

18 Q Did there come a time when you retired?

19 A Yes.

20 Q When was that?

21 A When I was 58 years old.

22 Q Mid-'90s?

23 A Yes.

24 Q Why did you retire?

25 A I was forced to retire.

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1 Q How were you forced to retire?

2 A The government sent a letter to the company stating that if
3 I worked for them, that they cannot bid for city, state, or
4 government contracts.

5 Q Why was that? What did it say in the letter?

6 A Because I was part of an organized crime family.

7 Q Were you, in fact, part of an organized crime family?

8 A Yes.

9 Q What family?

10 A The Bonanno Family.

11 Q How at that time were you affiliated with the Bonanno
12 Family?

13 A I was an associate, I was a soldier, and then at that
14 particular time I was a captain.

15 Q By the way, what company was it you were working for at
16 that time?

17 A At that particular time it was Petrocelli.

18 Q Petrocelli Lighting?

19 A Electric.

20 Q When did you first become involved with the Bonanno
21 Organized Crime Family?

22 A The late '70s.

23 Q During the time that you were involved with the Bonanno
24 Family -- you just briefly said this, but I want to make sure
25 that we are clear -- what positions did you hold?

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1 A First I was an associate, then I was a soldier, then I was
2 a captain, and then I became part of the administration.

3 Q When did you become a soldier in the Bonanno Family?

4 A 1983.

5 Q When you joined the Bonanno Family as a soldier, did you
6 take an oath?

7 A Yes.

8 Q What was the oath that you took?

9 A The oath that I took is that I would have my allegiance
10 only to the family; that that family becomes more important
11 than the family that I have with my wife and kids; that we were
12 never supposed to talk to law enforcement. If we ever got
13 approached by law enforcement, that we should go right to our
14 superiors, which would be at that particular time a captain,
15 because I was a soldier at that time.

16 And always be respectful. Don't allow yourself --
17 don't ever introduce yourself to anybody as a soldier in any
18 family. You will be introduced at the proper time.

19 Q As a member of the Bonanno Organized Crime Family, did you
20 participate in murder?

21 A Yes.

22 Q One murder or more than one?

23 A More than one.

24 Q Did you help dispose of bodies of individuals who had been
25 murdered?

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Tartaglione - Direct/Frank

1 A What was that?

2 Q Did you help dispose of bodies of individuals who had been
3 murdered?

4 A Yes.

5 Q Did you commit a variety of other crimes?

6 A Yes.

7 Q When did you stop being involved in the Bonanno Crime
8 Family?

9 A When I became an informant.

10 Q When was that?

11 A In 2003.

12 Q When you became a cooperating witness for the government in
13 2003, did you plead guilty to any crimes?

14 A Yes.

15 Q What crimes did you plead guilty to?

16 A Well, it was actually conspiracy to racketeering, which was
17 involved in two murders, arson, and extortion.

18 Q So there was a racketeering conspiracy that you pled to?

19 A Yes.

20 Q And then there were a number of predicate acts?

21 A Yes.

22 Q As parts of that racketeering conspiracy?

23 A Yes.

24 Q Did you acknowledge your responsibility for those?

25 A Yes.

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1 Q And that included two murders?

2 A Yes.

3 Q As part of your cooperation with the government, did you
4 also assist the government with an investigation?

5 A Yes.

6 Q Did you wear a wire?

7 A Yes.

8 Q Wearing that wire, did you record conversations with other
9 members of the Bonanno Organized Crime Family?

10 A Yes.

11 Q Did you record conversations with the defendant?

12 A Yes.

13 Q How long have you known the defendant?

14 A I would say from the early '90s.

15 Q What is the purpose of the Bonanno Crime Family?

16 A To make money.

17 Q How does the Bonanno Crime Family make money?

18 A Through extortion, gambling, poker machines, sports
19 betting, extorting businesses.

20 Q Are those all types of crimes?

21 A All types of crimes.

22 Q In addition to the Bonanno Family, are you familiar with
23 other organized crime families in the New York area?

24 A Yes.

25 Q What are those other organized crime families?

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Tartaglione - Direct/Frank

1 A You got the Colombos, you got the Genovese family, you got
2 the Lucheses, you got the Bonannos. Did I say The West Side?
3 The West Side.

4 Q You said the Colombos, the Lucheses.

5 A And the Gambino family.

6 Q The Genovese and the Gambinos?

7 A Yeah.

8 Q In addition to the Bonannos?

9 A Yeah.

10 Q You mentioned The West Side. Is The West Side a nickname
11 for one of those families?

12 A The Genovese.

13 Q You mentioned the Gambino family.

14 Is that family known by another name?

15 A The Gotti.

16 Q Who is that named after?

17 A John Gotti.

18 Q During the time that you were associated with the Bonanno
19 Family, was that family known by another name?

20 A The Massino family.

21 Q Who was that named after?

22 A Joseph Massino.

23 Q During the time that you were involved in Italian organized
24 crime, did you learn that there were positions and a structure
25 to the crime family?

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1 A Yes.

2 Q Starting from the top down, can you explain to the jury the
3 top three positions in an organized crime family?

4 A You got the boss, the underboss, and the consigliere.

5 Q Are you familiar with the term "administration"?

6 A Yes.

7 Q What does the term "administration" refer to?

8 A That's the administration.

9 Q The boss, the underboss, and the consigliere?

10 A Yes.

11 Q What is the role of the boss in an organized crime family?

12 A It's exactly what you say it is. He is the boss. He runs
13 the family. He says yes, he says no. And he makes sure
14 everybody could earn money so he could earn the money.

15 Q At the time you began cooperating with the government in
16 2003, who was the official boss of the Bonanno Crime Family?

17 A Joseph Massino.

18 Q When did he become the official boss of the Bonanno Crime
19 Family?

20 A I would say he became the boss around 1993, '94.

21 Q What happened that -- before he became the boss?

22 A What happened was he was running the family, and then he
23 was incarcerated. While he was incarcerated, the boss of the
24 family at that particular time was Phil Rastelli. Phil
25 Rastelli dies in jail. After he passes on, Sal comes to see

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1 us, meaning the captains, and says, Joseph Massino is the boss.

2 Do you agree? And we all agreed. And he seen us individually.

3 Q You mentioned an individual named Sal.

4 Who are you referring to?

5 A The underboss.

6 Q What's his full name?

7 A Sal Vitale.

8 Q He was the underboss of the Bonanno Crime Family?

9 A Yes.

10 Q At the time you cooperated, in early 2003, was Sal Vitale
11 available to fulfill his duties?

12 A No.

13 Q Where was he?

14 A He was in jail.

15 Q Was there an acting underboss?

16 A Yes.

17 Q Who was that?

18 A The acting underboss was Joe Saunders.

19 Q At that time was there also a consigliere of the Bonanno
20 Family?

21 A Yes.

22 Q Who was that?

23 A Spero.

24 Q Do you recall his first name?

25 A Anthony.

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Tartaglione - Direct/Frank

1 Q Anthony Spero?

2 A Yes.

3 Q Where was he at that time?

4 A He was in jail, and then later on he died.

5 Q During the time he was in jail, was there an acting
6 consigliere in 2003?

7 A Anthony Urso, Tony Green.

8 Q Anthony Urso is also known as Tony Green?

9 A Yes.

10 Q I would like to show you a couple of exhibits. They are in
11 evidence. I'm showing you what's in evidence as Government's
12 Exhibit 44.

13 Do you recognize that individual?

14 A Yes.

15 Q Who is it?

16 A Joseph Massino.

17 Q I'm showing you what's in evidence as Government
18 Exhibit 53.

19 Do you recognize that individual?

20 A Yes.

21 Q Who is it?

22 A Phil Rastelli.

23 Q Did he have a nickname?

24 A I can't remember if there was.

25 Q I'm showing you what's been -- what's in evidence as

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1 Government Exhibit 65.

2 Do you recognize that individual?

3 A Yes, Sal Vitale.

4 Q Did he have a nickname?

5 A Good Looking Sal.

6 Q I'm showing you what's in evidence as Government Exhibit
7 14.

8 Do you recognize that individual, once it comes into
9 focus? There we go.

10 A Joe Saunders.

11 Q Did he have another name?

12 A Joey C.

13 Q Do you know his actual last name?

14 A No. Saunders.

15 Q I'm showing you what's in evidence as Government
16 Exhibit 56.

17 Do you recognize that individual?

18 A Anthony Spero.

19 Q I'm showing you what's in evidence as Government Exhibit
20 63.

21 Do you recognize that individual?

22 A Tony Green.

23 Q Is that the individual you also identified as Anthony Urso?

24 A Excuse me?

25 Q Did you also identify him by another name?

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1 A Anthony Urso.

2 Q What is the next highest position under consigliere?

3 A Captain.

4 Q Are there other names for a captain?

5 A Caporegime, skipper.

6 Q What's the role of a captain in an organized crime family?

7 A He has a crew, and the crew reports to the captain.

8 Q What is the captain's role with respect to the crew?

9 A Make sure everything is running right. If there is a
10 problem, they will all come to the captain. He will sit down
11 with them. He manages them.

12 Q Is there also a position known as acting captain?

13 A Yes.

14 Q What role does an acting captain have?

15 A The acting captain takes the place of the captain if the
16 captain is not around. Let's say he goes away for three or
17 four days or whatever and he takes that position.

18 Q Who is responsible for training an acting captain?

19 A The captain.

20 Q What's the relationship, in your experience, like between a
21 captain and an acting captain?

22 A Most times it's very, very, very good.

23 Q Why is that?

24 A Because usually the captain and the acting captain get
25 along very well. It's usually the captain that picks the

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1 acting captain, and that's why.

2 Q What's the next position under captain?

3 A Soldier.

4 Q Is the soldier an inducted or a made member of the crime
5 family?

6 A Excuse me?

7 Q Is the soldier an inducted member of the crime family?

8 A Yes.

9 Q What does the soldier report to?

10 A To the captain.

11 Q Are there other names for soldier?

12 A Button guys, wiseguys, friends.

13 Q Are you familiar with the term "straightened out"?

14 A Yes.

15 Q What does that term mean in organized crime?

16 A When a guy becomes an inducted member, he is considered
17 that he got straightened out. And sometimes you could even
18 turn around and a guy says to you, whose that guy? Oh, that
19 guy was straightened out.

20 Q What's the role of a soldier in an organized crime family?

21 A To make money.

22 Q Anything besides making money?

23 A Well, if he has to do work, he will go out and do a little
24 work. If he has to be violent, he will go out and be violent.

25 Q You used the phrase doing work.

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1 Does that phrase have a particular meaning in
2 organized crime?

3 A When a person says to do work, yeah, you are going to go
4 out and kill somebody.

5 Q Is there a position under soldier?

6 A Associates.

7 Q What's the role of an associate?

8 A An associate generally is a money maker. And you are
9 priming him to become, maybe you are priming him to be an --
10 a -- inducted into the family, you are going to look to sponsor
11 him. You may have dozens or dozens, but you always pick out
12 one or two that you think got the capabilities of being a
13 friend, meaning a solder.

14 Q What do you do with those one or two who you think have
15 capabilities?

16 A First of all, you take them around to all the families, go
17 to weddings and wakes, and introduce them to everybody. Let
18 everybody get to know them. And then you send them on a couple
19 of missions to see if they could take, you know, take care of
20 business, if they listened.

21 Q You used the word "capabilities."

22 Does it mean something to be capable in organized
23 crime?

24 A Does it mean something to be capable? Well, you are
25 capable of murdering somebody. You are capable of robbing a

MICHELE NARDONE, CSR, RPR, CRR -- Official Court Reporter

Tartaglione - Direct/Frank

1 truck. Maybe you have to be violent with somebody. You are
2 capable of doing that and you are capable of making money.

3 Q Are you familiar with the term "on record"?

4 A Yes.

5 Q What does it mean to be on record?

6 A Most of the people that are associates are on record with
7 soldiers, captains, consiglieres, bosses, or underbosses. And
8 whoever they are on record with, if they open up a dice game or
9 they open up a card game or they got some kind of scam that
10 they are doing well with, nobody else from another family can
11 come in and say, whoa, whoa, whoa, whoa, you are with me, half
12 of the money comes to me, and this and that.

13 You say no, no, no, no, take it easy, pal. What I
14 would like you to do is go see so-and-so. Or you may turn
15 around and say, hey, listen, don't get excited, I will have
16 somebody come and visit you, to show them that you are involved
17 with somebody in organized crime.

18 Q That's the person that you are on record with?

19 A Yes.

20 Q When you first became associated with the Bonanno Organized
21 Crime Family, were you on record with anyone?

22 A Yes.

23 Q Who?

24 A Joe Massino.

25 Q How did you come to be on record with Joe Massino?

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Tartaglione - Direct/Frank

1 A I opened up an after-hour place and a gambling place, all
2 in one place. And we felt that we needed somebody -- I knew
3 Joey just like that. I mean, we weren't great friends but we
4 were friends.

5 And we felt that before somebody comes into the place
6 and says we have half of this place, we decided to go see Joe.
7 And we made Joe a partner in the place, and that got us to be
8 on record with each other.

9 Q At that time that you were put on record with Joe Massino,
10 what was his position in the Bonanno Crime Family?

11 A He was a soldier at that time.

12 Q You mentioned that you were concerned about somebody coming
13 around to your illegal card game and claiming that game.

14 Did there come a time when that actually happened?

15 A Yes.

16 Q When did that happen?

17 A I had a game in Brooklyn, Charlie Schuzer's game we called
18 it. And one time John came up to the game with three or four
19 guys and said to me, you know, this is our club and you never
20 brought it to our attention that you have something to do with
21 this place, you know, you are with us. I said, no, John, I'm
22 not with you. And he turned around and he said, no, you are
23 with me. I said, no, John, I'm with Joe Massino.

24 He got a little upset. He said I will straighten that
25 out. And I guess, I mean him and Joe Massino got together and

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Tartaglione - Direct/Frank

1 Joe Massino, I wind up that I was on record with Joe Massino
2 and that was the end of that.

3 Q Who is John?

4 A Gotti.

5 Q After you were around Joe Massino, did you have financial
6 obligations to him?

7 A We was partners in both places, yes.

8 Q Did you give him other money in addition to money from
9 those two businesses?

10 A Those two places when I was Shylocking interest or lending
11 money, I made him a partner with me with the money I was
12 lending.

13 Q What is Shylocking?

14 A When you lend money for points or a takedown.

15 Q What are points?

16 A Let's assume you lend the guy a hundred dollars, you charge
17 him three points. He gives you \$3 a week back, but the hundred
18 dollars stays the same.

19 If he gives you \$10 back the next week, he gives you
20 \$2.70 of the hundred dollars, it's deducted. But if he never
21 pays you anything back of the principal, it's the same 3
22 points. He gives you the same \$3 every week, if it's 3 points.

23 Q Three points per week, is that like a hundred fifty percent
24 per year?

25 A Sounds right to me.

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Tartaglione - Direct/Frank

1 Q Is that the kind of interest rates that are charged for
2 Shylocking loans?

3 A Anywhere from a point to 3 points.

4 Q And you would share those profits with Joe Massino?

5 A Of the two clubs, yes.

6 Q Did you give him money at other times?

7 A Christmastime. If I made a few dollars extra someplace, I
8 would say give him half of it.

9 Q You testified that in 1983 you became a made member of the
10 Bonanno Family?

11 A Yes.

12 Q Who sponsored you for induction?

13 A Joe Massino.

14 Q At that time was anyone else inducted along with you?

15 A Sal Vitale.

16 Q Who sponsored Sal Vitale?

17 A Joe Massino.

18 Q Did you have a ceremony?

19 A Excuse me?

20 Q Was there a ceremony?

21 A Yes.

22 Q Where did that ceremony happen?

23 A In Coney Island.

24 Q Where did that ceremony happen?

25 A Coney Island.

MICHELE NARDONE, CSR, RPR, CRR -- Official Court Reporter

Tartaglione - Direct/Frank

1 Q Where?

2 A In a house.

3 Q Whose house?

4 A Scutch's house.

5 Q Did Scutch have a brother?

6 A Yes.

7 Q Who is Scutch's brother?

8 A Frankie Lino.

9 Q I'm showing you Government Exhibit 39.

10 Do you recognize that individual?

11 A That's Frankie Lino.

12 Q What happened when you got to Scutch's house in Coney
13 Island?

14 A They were giving us the rules. Before they gave us the
15 rules, they turned around and said generally, we have a gun and
16 a knife here, but because of hard times, we are not going to
17 have these things here.

18 So we will proceed at that point, and at that point
19 they gave us some of the rules, and, again, the rules were that
20 you don't walk on water, that you respect everybody that's a
21 friend. If you have an argument with them, you can have an
22 argument, but you can't raise your hands. You can yell all you
23 want, because if you raise your hands it could mean death.

24 That your family is this family and not the family you
25 have at home. Respect other people's wives and kids that are

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1 friends of families. If you have a problem with law
2 enforcement or law enforcement comes and talks to you, make
3 sure you bring it up to your captain or whomever.

4 Q You mentioned raising your hands.

5 Can you not raise your hands to anyone who is a member
6 of organized crime or a particular individual?

7 A Nobody.

8 Q Any civilian?

9 A That's different.

10 Q So what do you mean?

11 A You have an argument with somebody and you want to raise
12 your hands to a person that hasn't got a title, I mean that he
13 is not a soldier or a member of any organized crime family,
14 he's not a member of an organized crime family. If you want to
15 give the guy a whack, you give him a whack.

16 But if you are on record with somebody and you know he
17 is on record with somebody, you could get away with giving him
18 a slap, but it would be best not to. But if you gave him a
19 slap, it's because it's his word against your word and your
20 word stands up more than the guy that's on record.

21 Q You mentioned relatives, never bothering with relatives.

22 Is that -- were you referring to relatives of made
23 members?

24 A Yes.

25 Q Do you recall anything about a rule about taking a gun to a

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Tartaglione - Direct/Frank

1 meeting with a made member?

2 A If you know you are going to a meeting with made members,
3 you are not allowed to take a gun with you.

4 Q Why is that?

5 A Because maybe you may become heated, something may happen.
6 It's better that you don't.

7 Q At this meeting, this induction ceremony, you mentioned
8 that you were told that ordinarily there would be a gun and a
9 knife present, but because of hard times there weren't.

10 What did you mean by that?

11 A Well, they were concerned about law enforcement busting in
12 the place.

13 Q Who else was present at that meeting, that induction?

14 A You had Stevie Beef, who was the consigliere, and at that
15 particular time running the family. Joe, who was running the
16 family with Joe, Joe Massino, and Anthony Spero.

17 Q At that time who was the official boss?

18 A Phil Rastelli.

19 Q Earlier you mentioned the importance of being introduced
20 properly.

21 What did you mean by that?

22 A When you become a made member, you just can go tell other
23 people that are made in the family that you are a made member
24 of a family. What you have to wait is because somebody -- you
25 will have been introduced by somebody that is a made member.

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1 And let's assume you meet so-and-so and so-and-so and
2 there is a person that knows that all three of us are made
3 members, or both of us are made members but we never met each
4 other. The guy that knows both of us as being made members
5 would turn around and say, Louie, I want you to meet Sal. He
6 is a friend of ours, and he is with the so-and-so family. And
7 then he would turn around and say, Sal, I want you to meet
8 Louie, he is a friend of ours and he is in so-and-so family.

9 In the event that he is a captain, after you meet them
10 as friends, you turn around and say, and also, Louie, Sal is
11 not only a friend of ours but he is a caporegime in the same
12 family. And the reason for that, I don't know, the reason for
13 that is that they can take away your rank.

14 They can take away you being a consigliere or a
15 captain. It doesn't happen, but they could take away you being
16 a boss, but they could never, ever take away you being a
17 friend, a soldier. That stays with you for life. They could
18 take you and put you on the shelf, they can do this and that,
19 but they can never take that away.

20 So that's why when they introduce you, the person
21 introduces you as a friend and then if you have a title above.

22 Q What does it mean to be on the shelf?

23 A Well, if you do something out of the way, sometimes they
24 take you and put you on the shelf. Listen, you are just a
25 headache, you are just -- you are just not for this life. So

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1 they tell them, listen, go about your business, no business as
2 far as the type of business that we are in, and that means they
3 put you on a shelf.

4 Q Is that a form of punishment?

5 A It certainly is.

6 Q You mentioned the term "friend of ours."

7 Is that different from the term "friend of mine"?

8 A When you say you are a friend of ours, it generally means
9 that you are part of an organized crime family. You say he is
10 a friend of mine, he is just a friend of mine.

11 Q You mentioned rules about speaking with or cooperating with
12 law enforcement.

13 What is the penalty for cooperating with law
14 enforcement?

15 A Death.

16 Q Why is that?

17 A Because you give away all the mortal sins of the family.
18 You let them know whatever you know. You let them know
19 everything that they are doing.

20 Q When you are talking about mortal sins, what are you
21 talking about?

22 A We are talking about murder, extortion, you are letting
23 where the bodies are buried, so-called bodies.

24 Q During your participation in the Bonanno Family, were you
25 ever concerned about other members of the family cooperating?

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Tartaglione - Direct/Frank

1 A Yes.

2 Q Why?

3 A Because a lot of people knew my mortal sins.

4 Q Is there a rule in organized crime related to narcotics,
5 drugs?

6 A Yes.

7 Q What's that rule?

8 A That's a no-no.

9 Q Why?

10 A Number one, because it hurts all these kids. Number two,
11 years and years and years ago, at that time there was a ruling
12 body a little more strong than it is today, where they decided
13 that if you get pinched for drugs or you get arrested for drugs
14 that you would get too much time. You could wind up with 20,
15 30, 40 years. And they felt that what's happening now, they
16 get the 20, 30, 40 years, we are going to wind up with
17 informants, so let's not go into that business. That was one
18 of the main reasons.

19 And the second reason was a lot of people didn't want
20 to hurt the kids.

21 Q When you say if you get 20, 30, 40 years, you are going to
22 wind up with informants, are you talking about because of the
23 stiffness of the penalty?

24 A You get that stiff of a penalty, you are probably going to
25 wind up with an informant or two.

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Tartaglione - Direct/Frank

1 Q You mentioned getting pinched.

2 What does it mean to get pinched?

3 A Arrested.

4 Q Is there a rule in organized crime related to murder?

5 A Is there a rule? Say that again?

6 Q Is there a rule about murder?

7 A I guess so.

8 MR. GOLTZER: Objection.

9 A There is a rule --

10 THE COURT: Wait.

11 MR. GOLTZER: I objected to speculation, your Honor.

12 THE COURT: Sustained.

13 BY MR. FRANK:

14 Q When you were inducted into the Bonanno Crime Family, were
15 you instructed about committing murders?

16 A Yes.

17 Q Was there a rule about that?

18 A Yes.

19 Q What was that rule?

20 A That you can't kill nobody until you get permission from
21 the boss.

22 (Continued on the next page.)

23

24

25

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Tartaglione - Direct/Frank

1 **A** And you can't kill nobody that's a friend, a friend's
2 father, a friend's son, and even if you want to kill somebody
3 outside the family, you still have to get permission because
4 you don't know. Maybe somebody knows what you don't know.
5 Maybe he says, you know something, you don't know but his
6 father is so and so or his son is so and so. So you always
7 have to get permission.

8 **Q** Is it worse to kill just anybody -- is there -- withdrawn.
9 Is there a difference between -- withdrawn.

10 Are the rules ever broken?

11 **A** Yes.

12 **Q** Are there murders that are committed that are not
13 authorized?

14 **A** Yes.

15 **Q** Have you ever heard the term "on the sneak"? Do you know
16 of the term "on the sneak"?

17 **A** Yes.

18 **Q** What does that term mean?

19 **A** When you don't let nobody know that you are going to whack
20 somebody out, meaning you are going to murder somebody without
21 permission. So you go on your business and whack somebody out.
22 That's on the sneak.

23 **Q** In your experience in organized crime, is there a
24 difference between committing a murder of a civilian on the
25 sneak and committing a murder of a made member or a relative of

Tartaglione - Direct/Frank

1 a made member on the sneak?

2 A Big difference.

3 Q What's the difference?

4 A To kill a person on the sneak that's not a made member, has
5 nobody, that he's not affiliated with is one thing, but when
6 you kill somebody that's a made member or a made member's son
7 or a father, now you've, your liable to start a war between
8 families and families.

9 Q So it's worse?

10 A Definitely.

11 Q Do you have to have a certain ethnic background in order to
12 get straightened out?

13 A Yes.

14 Q What's that background?

15 A Italian.

16 Q You testified about your own induction ceremony in 1983.
17 Have you also attended induction ceremonies for other members
18 into the Bonanno family?

19 A Yes.

20 Q Who?

21 A I was there for Jimmy Barbieri, Bari Mascitti, Frankie
22 Lino's son, Frankie Coppa's son, Joe Shake, Joe Shakes. There
23 was many.

24 Q Have you ever sponsored anyone for induction?

25 A Yes.

Tartaglione - Direct/Frank

1 Q Who?

2 A I sponsored General Barbieri, Bari Mascitti, and I was
3 asked to sponsor Sally Bross.

4 Q You mentioned General Barbieri. Did he have any nicknames?

5 A Jimmy.

6 Q You sponsored him --

7 A Yes.

8 Q -- for induction?

9 A Yes.

10 Q And did you attend his induction ceremony?

11 A Oh, yes.

12 Q You testified that you were inducted in 1983. When did you
13 become a captain?

14 A Or maybe a year later.

15 Q Who elevated you to captain?

16 A Joseph Massino.

17 Q Over what period of time did you serve as a captain in the
18 Bonanno family?

19 A Up until the time I became an informant.

20 Q Did you have a crew?

21 A Yes.

22 Q Over that period of time, from the time you became a
23 captain until the time you began cooperating with the
24 government, who are some of the people that served in your
25 crew?

Tartaglione - Direct/Frank

1 A You had Manda, you had Bari Mascitti, you had Jimmy
2 Barbieri, you had Chubby, you had Johnny Palazzolo, you had Fat
3 Anthony, you had Sally Bross, you had Frankie Coppa, you had
4 Joe Curley.

5 Q When you were a captain, did you also have an acting
6 captain?

7 A Yes.

8 Q One person or different people over time?

9 A I had different people over time.

10 Q Who were some of those people?

11 A Frankie Coppa. Then I had Crazy Charlie, Ronnie Collucci
12 and then Jimmy Barbieri.

13 Q And at the time you cooperated, at that point, did you also
14 have an acting captain?

15 A Yes.

16 Q Who was that?

17 A Vinny from the knitting mill.

18 Q Why did was he called Vinny from the knitting mills?

19 A Well, he was dyeing wool material. He had a big factory.

20 Q During the time that you were associated with the Bonanno
21 family, was there a period of time when Joe Massino was in
22 jail?

23 A Yes.

24 Q When was that?

25 A The late '80s until about '94, '95, '93, something like

Tartaglione - Direct/Frank

1 that.

2 Q Who ran the family while Massino was in jail?

3 A Spero and Sal Vitale.

4 Q What was Sal Vitale's position then?

5 A At one time, he was just a captain and then he became an
6 underboss.

7 Q What was Spero's position then?

8 A He was the consigliere.

9 Q When Massino got out of jail, you mentioned it was the mid
10 '90s?

11 A Yeah.

12 Q Did you meet with him?

13 A Yes.

14 Q Are you familiar with the term "supervised release"?

15 A Yes.

16 Q What is supervised release as you understand it?

17 A Supervised release is a form of being on parole that the,
18 you're under the government's wing until -- saying you got
19 three years supervised release, you're under the government's
20 wing and you have things that you can't do and things that
21 you're allowed to do, and the main thing is that you're not
22 allowed to associate or talk to anybody from organized crime
23 and stay away from anybody that has a felony.

24 Q Did you understand Joe Massino to be on supervised release
25 at that time?

Tartaglione - Direct/Frank

1 A Yes.

2 Q Did you meet with him?

3 A Yes.

4 Q Where did you meet with him?

5 A Once or twice in the knitting mill, in the factory, and
6 once and twice in my daughter's house.

7 Q You mentioned that there was a point in time that you were
8 appointed to something called, you called it the committee?

9 A Yes.

10 Q What was that?

11 A Joe wanted a committee formed and the committee was
12 Louie Ha-Ha, Sal Vitale and myself, and the idea of that was
13 any time you go to a meeting, that nobody goes by themselves.
14 You always have to go with two people, and to service all the
15 captains, see them like once every seven to ten days, see what
16 they're doing, ask them how everything is, and after we got
17 done with that, then we bring back all the information to Joe
18 Massino.

19 Q Is there also a, in organized crime a committee of bosses
20 of the various families?

21 A A committee of bosses? There's a lot of times that I, I
22 wasn't a boss. I was just part of the committee or -- part of
23 the committee. I was allowed to go to meetings.

24 So as far as a committee of the bosses, that was a
25 little beyond me so I don't know. The -- of all the bosses

Tartaglione - Direct/Frank

1 meaning together? I don't know that.

2 Q When you're referring to the committee, you're referring to
3 the three individuals you mentioned?

4 A Yes.

5 Q And who appointed those individuals?

6 A Joe Massino.

7 Q Did there come a time when Louie Ha-Ha was no longer on
8 that committee?

9 A Yes.

10 Q What happened?

11 A He got arrested.

12 Q What happened after he got arrested?

13 A He went to jail and they put Georgie from Canada on.

14 Q Who put Georgie from Canada on?

15 A Joe Massino.

16 Q During the time you were involved in Italian organized
17 crime, did you spend any time in social clubs?

18 A Yes.

19 Q What's a social club?

20 A It's where guys hang out, play cards, eat, socialize.

21 Q Is it open to the public?

22 A No.

23 Q Did you ever operate a social club?

24 A Yes.

25 Q So who's allowed in?

CHARLEANE M. HEADING, RMR, CRR, FCRR
Official Court Reporter

Tartaglione - Direct/Frank

1 A Well, usually the guys that are around the neighborhood
2 that's part of our, who we socialize with. That was it.

3 Q Members and associates of organized crime?

4 A Yes.

5 Q Where was your club located?

6 A In Ravenswood, Long Island City.

7 Q Did you go to other clubs?

8 A Oh, yeah.

9 Q Whose clubs did you go to?

10 A I went to Bath Avenue which was Spero's club. I went to
11 John Gotti's club. I went to Mickey Batts' -- not Mickey
12 Batts -- Joe Saunders' club. I went to Frankie Lino's club. I
13 went to so many clubs.

14 Q Did you know of a club on Russ Street?

15 A That was Joe Massino's club.

16 Q Did you know of a club on Grand Avenue?

17 A That was Sal Vitale's club.

18 Q Did you go to those clubs?

19 A Oh, yeah.

20 Q You mentioned earlier wakes and funerals and weddings.

21 Did you attend wakes and weddings and funerals during
22 the time that you were associated with the Bonanno family?

23 A Oh, yeah.

24 Q And were those wakes and weddings and funerals of
25 associates of organized crime and their families?

Tartaglione - Direct/Frank

1 A Yes.

2 Q Why did you do that?

3 A Well, you always respect the person that died and we
4 respect the people that they came from.

5 Q Did you discuss business at those events?

6 A Oh, yes.

7 Q Business related to organized crime?

8 A Yes.

9 Q Did there come a time when you ever stopped going to wakes
10 and weddings and funerals?

11 A There was a time when Joe Massino turned around and said,
12 listen, we're making it that we're giving the agents too much
13 information so from now on, depending on who died, only two
14 people go to a wake. Weddings, only two people go to the
15 wedding from the family. And this here way, you won't be
16 getting so many pictures taken of youse. Let's just calm it
17 down.

18 Q Pictures taken by who?

19 A Law enforcement.

20 Q As a general matter during the time you were associated
21 with the Bonanno crime family, were you concerned about law
22 enforcement surveillance?

23 A Oh, yeah.

24 Q Besides not going to wakes and weddings and funerals, were
25 there other things you did to try to avoid surveillance?

Tartaglione - Direct/Frank

1 A Well, if we were in a club and somebody wanted to talk to
2 you about business, we would walk around, two blocks away,
3 three blocks away.

4 We had beepers that gave you codes that told you,
5 listen, I'll meet you on 91st street at 3 o'clock so they
6 wouldn't know. If you got a code 101, just for argument's
7 sake, and it said 325, we had a predestined thing, 101 might
8 have been, for argument's sake, Sal Vitale, to meet him on
9 91st street at 3 o'clock.

10 We had -- don't talk on no phones. That was a no-no.

11 Q Why not talk on the phone?

12 A Because most of the time they were bugged or you felt they
13 were bugged.

14 Q You mentioned going for a walk talking with people. Is
15 there a term for that?

16 A Walk and talk, I guess.

17 Q Was there a special way of referring to Joe Massino when
18 you were associated with the Bonanno family?

19 A Excuse me?

20 Q Was there a special way that Joe Massino liked to be
21 referred to?

22 A Pulling your ear or call the ear or pull your ear down.

23 MR. FRANK: Let the record reflect the witness is
24 tugging on his ear.

25 THE COURT: All right.

Tartaglione - Direct/Frank

1 Q (By Mr. Frank) During the term -- the period of time
2 that you were involved with the Bonanno family, did you ever
3 hear of the term "sitdown"?

4 A Oh, yeah.

5 Q What is a sitdown?

6 A Sometimes you have a problem with another family or within
7 the family and you sit down and you discuss it amongst, you
8 know, soldier to soldier, captain to captain, underboss to
9 underboss, whichever, however it turns out.

10 I mean, you, you can't go to a sitdown if you're a
11 soldier and have a sitdown with an underboss. I mean it's just
12 not -- or you can't go if you're a soldier, you have to sitdown
13 with the captains. That's just not right. So, and if you need
14 the captain to be there, you bring your captain and a soldier
15 and captain.

16 So you always even it up and you discuss what,
17 hopefully what you can do for the family not to have an
18 argument with everybody.

19 Q During the time that you were involved with the Bonanno
20 family, did you ever hear the term "whack"?

21 A "Whack"?

22 Q As if to whack somebody?

23 A Yes.

24 Q What does it mean to whack somebody?

25 A To kill somebody.

Tartaglione - Direct/Frank

1 Q Did you ever hear the term "clip"?

2 A Yes.

3 Q What does it mean to clip somebody?

4 A To kill somebody.

5 Q I believe you testified about what a piece of work is.

6 A Kill somebody.

7 Q Have you ever heard the terms "earner and shooter"?

8 A Oh, yeah.

9 Q What are earners and shooters?

10 A Sometimes you got guys that are around you or under you
11 that just got the knowledge how to earn money in different
12 types of businesses and then you got guys that you consider
13 shooters, that if you need something to be done that's violent,
14 those are the guys that are capable of doing it. They'll just
15 go out and do it.

16 Q You mentioned earlier that there was a period of many years
17 when you were a member of Local 3.

18 While you were a member of Local 3 but before you
19 retired, were there periods of time that you didn't go to work
20 but you still got paid?

21 A Yes.

22 Q Is there a term for that?

23 A No show job.

24 Q Before you retired, how much did you earn per year?

25 A I would say around 80,000 a year or close.

Tartaglione - Direct/Frank

1 Q Since the time that you've retired from Local 3, do you
2 still receive a pension?

3 A Yes.

4 Q How much is your pension?

5 A About 1,700 a month.

6 Q During the time that you were involved with the Bonanno
7 crime family, approximately how much money did you make through
8 illegal means?

9 A I would say a few million dollars.

10 Q What did you do with that money?

11 A I spent it.

12 Q Did you buy a house?

13 A I bought a house.

14 Q How much did you pay for your house?

15 A About 400,000.

16 Q Did you give money to other family members?

17 A My two daughters.

18 Q Did you help your daughters buy houses?

19 A I helped them.

20 Q Did you have people who were around you do work on your
21 house and your kids' houses?

22 A Yes.

23 Q Did you always pay them for that work?

24 A Depending who did it.

25 Q Sometimes you didn't pay them?

CHARLEANE M. HEADING, RMR, CRR, FCRR
Official Court Reporter

Tartaglione - Direct/Frank

1 A There was people that I paid and people that did me a favor
2 that I didn't have to pay.

3 Q And those people who did you a favor, were they people who
4 were under you in the hierarchy of the Bonanno family -- let me
5 withdraw the question.

6 A Well --

7 Q Let me rephrase the question.

8 At the time they did work for you, did you rank above
9 them?

10 A Yes, like John Palazzolo is a plumber so I had a problem
11 with one of the kids' houses and he helped me take care of that
12 problem with Sally Disaldo.

13 Then who did the brick work and who did the other work
14 was a construction company and I paid them whatever it cost to
15 do the job.

16 Q During the time that you were associated with the Bonanno
17 family, tell me some of the kinds of crimes. You mentioned
18 murders. You mentioned moving bodies.

19 What were some of the other kinds of crimes that you
20 did?

21 A Extortion, shylocking, arson, credit cards.

22 Q Do you know what "numbers" is?

23 A Numbers.

24 Q What is "numbers"?

25 A Joker poker machines.

Tartaglione - Direct/Frank

1 Q Are those forms of gambling?

2 A Yes.

3 Q Illegal gambling?

4 A Yes.

5 Q Were you involved in any assaults?

6 A Assault.

7 Q How old were you when you first started committing crimes?

8 A I was about 20, 21.

9 Q How old were you when you were first arrested?

10 A I would say I was about 20, 21, something like that.

11 Q What did you get arrested for?

12 A Assault.

13 Q What were the circumstances?

14 A It was a barroom brawl.

15 Q How was that case resolved?

16 A I got a disorderly conduct.

17 Q Did you plead guilty?

18 A Yes.

19 Q What was your next arrest for?

20 A Hijacking.

21 Q When was that?

22 A 1959.

23 Q How old were you at that time?

24 A Oh, I don't know, 30, 25. I really don't know.

25 Q What did you hijack?

CHARLEANE M. HEADING, RMR, CRR, FCRR
Official Court Reporter

Tartaglione - Direct/Frank

1 A A truck full of liquor.

2 Q Did you go to trial?

3 A It got a hung jury the first time. The second time we pled
4 guilty.

5 Q So you went to trial initially?

6 A Yes.

7 Q Got a hung jury?

8 A Yes.

9 Q And then pled guilty?

10 A Yes.

11 Q Where was that?

12 A That was in the federal court.

13 Q Where?

14 A Right across the street, the Post Office.

15 Q Did you serve prison time as a result of that guilty plea?

16 A Yes.

17 Q How long?

18 A Three years.

19 Q You mentioned that you were involved with shylocking. Over
20 what period of time were you involved with shylocking?

21 A I would say since I came out of the Army until 2003.

22 Q When were you first -- have you ever been arrested for
23 shylocking?

24 A Yes.

25 Q When were you first arrested for shylocking?

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Official Court Reporter

Tartaglione - Direct/Frank

1 A I would say 1967, '68. Something like that.

2 Q Did you go to trial?

3 A No.

4 Q Did you plead guilty?

5 A Yes.

6 Q Were you sentenced?

7 A Yes.

8 Q What did you get?

9 A I got three months, \$5,000, five years probation.

10 Q What were the requirements of your probation?

11 A To stay out of trouble, don't be involved with anybody
12 that's doing illegal things.

13 Q Did you stay out of trouble?

14 A No.

15 Q What did you do?

16 A I continued my shylocking business.

17 Q You mentioned earlier that you were involved in arson?

18 A Arson.

19 Q Were you involved in arson while you were on probation
20 during this period?

21 A Yes. Yes.

22 Q At that time, were you -- by this point, were you already
23 involved with the Bonanno family?

24 A Just about, yes.

25 Q Were you made or were you an associate?

Tartaglione - Direct/Frank

1 A I was an associate.

2 Q How many arsons were you involved in?

3 A Two.

4 Q What were those?

5 A One was a coffee truck operation, a mill house, and one was
6 a dentist's office.

7 Q How did you get involved in those arsons?

8 A Joe wanted a favor to burn the milk truck stop down so Sal
9 and I climbed the roof, we lit the roof up and we came back.

10 Q Joe Massino?

11 A Yes.

12 Q And Sal Vitale?

13 A Yes.

14 Q What about the dentist's office?

15 A Joe asked us to go see the dentist because he wanted to
16 have the place burnt down. Sal Vitale and I went to go look at
17 the dentist and we burned the place down.

18 Q You met with the dentist first?

19 A Yes.

20 Q He showed you how?

21 A Yes.

22 Q To your knowledge, was anyone in the buildings at the time
23 you burned them down?

24 A There was nobody in the building.

25 Q How do you know that?

Tartaglione - Direct/Frank

1 A Because it was considered a taxpayer, just, just one floor,
2 just one thing for me. Like a storefront building.

3 Q And when you burned down the dentist's office for Sal, did
4 you get paid?

5 A Yes.

6 Q Who paid you?

7 A Joe Massino.

8 Q How much did you get?

9 A 1,500.

10 Q Did there come a time when you were arrested again for
11 loansharking for shylocking?

12 A Yes.

13 Q When was that?

14 A In 1997.

15 Q Is that a state charge or a federal charge?

16 A Federal.

17 Q Where were you charged?

18 A In this court, Eastern District.

19 Q Did you go to trial?

20 A No.

21 Q Did you plead guilty?

22 A Yes.

23 Q Were you sentenced?

24 A Yes.

25 Q What sentence did you receive?

Tartaglione - Direct/Frank

1 A I think I got five years.

2 Q Sorry?

3 A Five years.

4 Q Did you get off on bail before you pled guilty?

5 A Say that again?

6 (Continued on next page.)

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Tartaglione - Direct/Frank

1 DIRECT EXAMINATION

2 BY MR. FRANK:

3 Q Before you actually pled guilty, were you on bail?

4 A Yes.

5 Q Do you remember what the conditions of your bail were?

6 A I was under house arrest.

7 Q Did you violate the terms of your bail?

8 A Yes.

9 Q Before you were sentenced in that case, were you
10 interviewed by a probation officer?

11 A Yes.

12 Q Did you tell the truth in that interview?

13 A No.

14 Q What did you lie about?

15 A I lied about money, that I -- I only told them about the
16 money that I showed, meaning my income taxes. I never told
17 them that I had money on the side. I still had a shylock
18 business. And I said I was an alcoholic so I could get time
19 off from the sentence.

20 Q At that time were you in fact an alcoholic?

21 A No.

22 Q Why did you tell them you were an alcoholic?

23 A Because if you go through a program you possibly could get
24 a year off your sentence plus a six-month halfway house.

25 Q During the time that you were incarcerated, were you able

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Official Court Reporter

Tartaglione - Direct/Frank

1 to maintain your shylocking business?

2 A Yes.

3 Q How?

4 A Well, Sal Vitale would pick it up for me, the money.

5 Q Would anyone else do that for you as well?

6 A Well, it was between Sal Vitale and Joe Chase who was going
7 to pick it up, but they brought the money to Sal Vitale.

8 Q What did Sal Vitale do with the money?

9 A Brought it to my wife.

10 Q Gave it to your wife?

11 A Yes.

12 Q Cash?

13 A Yes.

14 Q When were you released from prison?

15 A In 2002.

16 Q Following your release from prison, were you again on
17 supervised release?

18 A Yes.

19 Q Same kinds of rules and restrictions?

20 A Yes.

21 Q Did you violate those conditions?

22 A Yes.

23 Q How did you violate them?

24 A Well, I met with Tony Green and Joe a couple of times. I
25 met with Joe about three times in Florida and that's how I

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Official Court Reporter

Tartaglione - Direct/Frank

1 violated.

2 Q Do you know someone named Louie Electric?

3 A Yes.

4 Q Did you also meet with Louie Electric?

5 A Excuse me?

6 Q Did you also meet with Louie Electric?

7 A Yes.

8 Q I'm showing you what's in evidence as Government's

9 Exhibit 25. Do you recognize that individual?

10 A Yes.

11 Q Who is it?

12 A Louie Electric.

13 Q You mentioned that you were involved in murders?

14 A Yes.

15 Q How many murders were you present for?

16 A I was present for two murders.

17 Q Who were the victims of those murders?

18 A Cesar and Russell.

19 Q Those were first names?

20 A Cesar and Russell.

21 Q Do you know their last names?

22 A Not offhand.

23 Q Is the first murder the murder of Cesar?

24 A Yes.

25 Q When was that?

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Official Court Reporter

Tartaglione - Direct/Frank

1 A Well, I would say -- I would say the late '80s or early
2 '90s.

3 Q Who was Cesar?

4 A He was a captain in the Bonanno Family.

5 Q Where was Joe Massino at the time Cesar was murder?

6 A He was on the lam.

7 Q How did you get involved in that murder?

8 A Sal Vitale and Marty Buckalone told me to come to see them.

9 Q Sal Vitale and who?

10 A Marty Buckalone. And they told me they wanted me to go to
11 the garage and that Cesar was going to be whacked out.

12 Q Whose garage?

13 A Goldie's.

14 Q Who is Goldie?

15 A Goldie's an associate of the Bonanno family.

16 Q What happened in the garage?

17 A I was in the garage with -- with Bobby Ha-Ha and Peter
18 Rabbit. I met them there. And maybe about 20 minutes later
19 Sal Vitale and Louie Ha Ha drove into the garage, pulled
20 Cesar's body out of the car. He was still supposedly jumping
21 up and down. Louie Ha Ha went and shot him in the head again,
22 and we left.

23 Q Do you recall if Sal was -- withdrawn.

24 What happened after Louie Ha Ha shot Cesar in front of
25 you?

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Official Court Reporter

Tartaglione - Direct/Frank

1 A Sal says, "Let's go," and we left.

2 Q Did you take anything with you?

3 A Sal -- Louie Ha Ha took the gun with him, if that's -- and
4 as we drove around Louie Ha Ha told Sal, "Just stop by the
5 sewers." And he took the gun apart and threw everything in
6 different sewers.

7 Q You mentioned Russell. Who is Russell?

8 A Russell was a soldier in the Bonanno family.

9 Q What was your role in his murder?

10 A Sal called me and told me that he wanted him to be whacked
11 out and he wanted it to be done in my club. And you don't have
12 to do nothing else, I'll send the shooters, and just keep John
13 Pizzolo and Jimmy with you and Russell will come to the club.
14 I meet Russell outside and we walked inside, and they shot him.

15 Q Who shot him?

16 A Joe Desi and Petey Boxcars.

17 Q What happened after Joe Desi and Petey Boxcars shot Russell
18 in your club?

19 A As soon as that happened, maybe two minutes later Mickey
20 Bats, Sal Vitale, and Pete Rosa walked into the club. Mickey
21 Bats took the guns off of -- off of Joe Desi and Petey
22 Rabbit -- I mean, Petey Boxcars, told them to leave. Sal got a
23 body bag, they put the body into the body bag, to carry the
24 body bag and they -- they took the car and they put it in the
25 back. They dropped the body in the trunk and they drove it

Tartaglione - Direct/Frank

1 away.

2 Q Who is Mickey Bats?

3 A He's a captain in the Bonanno Family.

4 Q Who is Petey Boxcars, at that time?

5 A He was an associate.

6 Q Who was Joe Desi?

7 A He was a soldier.

8 Q You mentioned Pete Rosa?

9 A Yes.

10 Q Who was he?

11 A A soldier.

12 Q Do you know why Russell was killed?

13 A From what I understand, Sal felt intimidated by him and was
14 very concerned about him.

15 Q What, if anything, do you know about whether Russell was a
16 violent person?

17 A Oh, he was violent.

18 Q You know anything about any incidents with him in bars?

19 A There was one night I was going home and he had a place or
20 supposedly had a place, him and -- him and Beansie, on Fresh
21 Pond Road. So I said you know something, let me go stop and
22 say hello to them. When I got out of the car to say stop and
23 say hello, I parked the car. As I walked in, they were
24 shooting up the place. I says, you know something, let me get
25 out of here and I left. And I later found out it was Russell

Tartaglione - Direct/Frank

1 shooting up the place.

2 Q You later found out it was --

3 A Russell.

4 Q Russell who what?

5 A Was shooting up the place.

6 Q Who was Beansie?

7 A Beansie was a soldier in the Bonanno Family.

8 Q Are you familiar with the murder of the three captains?

9 A Yes.

10 Q When was that?

11 A I would say 1980.

12 Q Who were the three captains that were murdered?

13 A Trinny, Red, and Philly Lucky.

14 Q What was your role in that crime?

15 A My role, I carried the bodies. They put the bodies in a
16 van. I was told to follow Sal and I was told to -- he'll tell
17 me where to drop it off. We wind up on Crossbay Boulevard and
18 we dropped it off there.

19 Q Let me just write that down for a second.

20 Were you were present when they were murdered?

21 A No.

22 Q Where were you?

23 A I was in a van.

24 Q Before you were in the van, where were you?

25 A What happened was I was asked to come to the club on Rust

Tartaglione - Direct/Frank

1 Street. Stood around the club. Sal says to me, "Go into the
2 van with Sonny Black and Fat Anthony." I go into the van with
3 Sonny Black and Fat Anthony. Sonny Black takes truck to a
4 location, I don't know where the location was.

5 We were there maybe about 20 minutes. Sonny Black got
6 a call on a two-way radio, says, "Okay, we're going to go
7 back." We go back. When we go to the club, Sal was already at
8 the club. When we walked over to the Sal, Sal says, "Come on
9 Louie, you come with me." Excuse me. "You come with me."

10 At that point we went to the club, the club where the
11 bodies were. Sal says, "You help me pick up all the shells."
12 By that time those bodies were being wrapped up, they already
13 were wrapped up. Then they took the three bodies and they put
14 it into the van. Sal says to me, "Just follow me, you take the
15 truck and follow me."

16 He leaves I think with Goldie, if I'm not mistaken. I
17 follow him. We go from the club to Crossbay Boulevard. He
18 says, Drop the car off here. There's a cab stand up the block.
19 And just take a cab, go back to the club and go home."

20 That's what I did, I got out, I got the cab, from the
21 cab I went to the club, I got my car and I went home.

22 Q Do you recall if you were aware that someone was going to
23 be murdered prior to the time you went to the club?

24 A I wasn't aware that anybody was going to be murdered. I
25 knew something was going on; exactly what, I didn't know.

Tartaglione - Direct/Frank

1 Q Do you recall ever telling Joe Massino that you were
2 willing to be a shooter in that crime?

3 A Never ever ever.

4 Q After the three captains's murder, did there come a time
5 when you were asked to kill someone?

6 A Say that again.

7 Q After the three captains's murder, did there come a time
8 where you were asked to kill someone?

9 A Maybe about a month or two passed by or maybe a couple of
10 weeks passed by, Joe had a -- somebody was making their
11 communion or confirmation or whatever it was, had a party in
12 the Rust Street Club. We had gone to the club, my wife and I,
13 and many wives were there. Joe takes me outside with Sal
14 Vitale, Fat Anthony, of course Joe Massino and myself. He
15 says, "I want you two," meaning Fat Anthony and me, "to go see
16 if you could find Red, Bruno, rather," in Florida.

17 Q Who is Bruno?

18 A Bruno is Red's son.

19 Q Do you know his last name?

20 A I think it's Indelicato.

21 Q What was Bruno's -- was he an associate with the family at
22 that point?

23 A He was a soldier.

24 Q And when you say that Joe Massino asked you and Fat Anthony
25 to go to Florida and find Bruno, what were your instructions?

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Official Court Reporter

Tartaglione - Direct/Frank

1 A It was, if could you find him to whack him out.

2 Q Did you do that?

3 A No.

4 Q Why?

5 A Ten minutes later he called it off.

6 Q Who called it off?

7 A Joe Massino.

8 Q Besides moving the bodies of the three captains, were you
9 involved in moving any other bodies?

10 A Yes.

11 Q Whose bodies do you believe you moved?

12 A Bootsie.

13 Q Who is Bootsie?

14 A Bootsie is a machine guy, all these different type of
15 machines, that's what he owned.

16 Q Prior to the time that you moved the body that you believe
17 to be Bootsie, did you know that anyone was going to be killed?

18 A No.

19 Q Had you been told?

20 A No.

21 Q What was your role with respect to moving that body?

22 A Sal Vitale says you and Jimmy meet me at the -- wait for my
23 call at this restaurant, which was by the Meeker Avenue
24 overpass. And we went to the restaurant and maybe 45 minutes
25 later, a half hour later, he calls up and says, "Louie, do me a

Tartaglione - Direct/Frank

1 favor, you and Jimmy, there's a truck in back of Joe Saunders'
2 club. Take the truck and just drop it off on Flushing
3 Avenue -- not Flushing Avenue, in Flushing, New York, you know,
4 Flushing Queens.

5 Me and Jimmy went there, Jimmy drove the truck, and we
6 dropped. And I knew at that particular time that there had to
7 be a body in there.

8 Q How did you know that?

9 A Well, why would he call me to do something like that? You
10 know, it didn't make no sense.

11 Q And when you say "Jimmy," who are you referring to?

12 A Jimmy Barbieri.

13 Q And when you moved what you believed to be the body, who
14 drove the truck?

15 A Jimmy.

16 Q What did you do?

17 A I followed him.

18 Q And did there come a time after you moved the body that you
19 spoke to Sal again?

20 A Maybe two or three days later we were on in a club on Grand
21 Avenue. Sal grabs me and takes me outside. He says to me,
22 "What did you do with body?" I says, "What body?" He says,
23 "Bootsie's body." I said, "I didn't know there was a body
24 there." He says -- Well, I talked to him. "You told me to
25 bring that truck to Flushing, I brought it to Flushing." He

Tartaglione - Direct/Frank

1 says, "You sure?" I says, "Sal, you told me to bring the truck
2 to Flushing, he's in Flushing."

3 That was the end of it. And he actually told me it
4 was Bootsie.

5 Q You mention that Bootsie had a Joker-Poker business?

6 A Yes, amongst other machines.

7 Q Who subsequently -- did somebody subsequently take over
8 that business?

9 A Sal Vitale.

10 Q Did you ever ask permission to have anyone killed?

11 A Yes.

12 Q Who?

13 A Crazy Charlie and Jimmy Barbieri.

14 Q Crazy Charlie was a member your crew?

15 A Yes.

16 Q What were the circumstances under which you asked for Crazy
17 Charlie to be killed?

18 A Crazy Charlie, Jimmy Barbieri and myself, these were
19 Charlie's -- first of all, they were Charlie's machines and he
20 turned it around and Jimmy says, "I can get four or five spots
21 if we go pond." Charlie agreed to go pond four or five spots.

22 Q Spots for what?

23 A What's that?

24 Q Spots for what? What kind of spots?

25 A Like candy stores, video shops, wherever, you know, you can

Tartaglione - Direct/Frank

1 put a spot. These happen to be --

2 Q What did you put in those spots?

3 A The Joker-Poker machines. They were in -- up from our club
4 right on the corner of the club, on the opposite corner there
5 was a -- a grocery store, candy store. We put two machines in
6 there.

7 Three or four weeks later I get to the club, Saturday
8 after -- Saturday like about 12:00 o'clock, and Sal was there,
9 everybody was there -- or a lot of people were there. And
10 Swain and Jimmy come over to me -- Swain would be Jimmy's
11 father and he's no longer with us. And saying that "Charlie's
12 robbing the machines, that's why there's no money in there." I
13 says, "Charlie's robbing the machine? It doesn't even make
14 sense." So he says right. Swain goes and gets the owners of
15 that candy/sandwich shop and brings the two owners. And the
16 two owners turn around and say, "Listen, we put the two
17 machines in here, I have to pay all the credits, Charlie comes
18 in here every single morning and takes all the money out and
19 tells us not to say nothing to nobody." Otherwise there would
20 be a major problem.

21 But meanwhile it's getting too far ahead of us. I
22 don't want the machines in there. I owe more money than the
23 machines cost me money at the end of the week because I have to
24 pay out all the credits. And I'm not getting reimbursed for at
25 least the credits.

Tartaglione - Direct/Frank

1 Who comes walking over is Charlie. I ask Charlie, I
2 say, "Charlie, are you stealing the money out of the machines?"
3 He says, "Yes." I says, "Why would you do something like
4 that?" He gets crazy and starts yelling and cursing and he
5 calls Sal a coffee truck driver and that's all he knows, he's a
6 server for coffee trucks or whatever, and he calls me a light
7 bulb changer because I worked for street lighting and said your
8 mother's -- you're like your mother, a dummy, because my mother
9 is hearing impaired and my father was -- he's no longer with us
10 here either. He's hearing impaired.

11 With that he turns around and he runs. He runs. So
12 at that particular time I was very, very angry and I say to
13 Sal, "Sal, I'm going to whack this guy out." He says, "Okay,
14 go ahead." And that was it. That started the ball rolling.

15 Q You were angry because he had been stealing from you?

16 A With everything. I mean, the heated argument, him cursing
17 him and I, and the way he did it in front of everybody. You
18 know, you get -- it was very upsetting.

19 Q It was disrespectful?

20 A More than that.

21 Q He insulted your parents?

22 A Yes. And besides everything else.

23 Q Was Crazy Charlie ever killed?

24 A No.

25 Q Why not?

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Official Court Reporter

Tartaglione - Direct/Frank

1 A As time went by you forgot about it. Like after a month or
2 so, it was all forgotten about.

3 Q When you say you forgot about it, what do you mean about by
4 that?

5 A Well, what happened -- what happened in the beginning, I
6 got four or five of my guys and told them, "Go look for Charlie
7 on First Avenue, him and Ant," because he lived off -- between
8 10th and 11th and First Avenue.

9 So I sent four or five guys there, two guys one time,
10 two guys another time, this and that. And after a week or
11 two -- first of all, he moves away, and he runs away with
12 Lily's daughter. And after they ran away, I just tell them,
13 "Forget about it, it's all over."

14 Q So you called it off?

15 A What?

16 Q You called it off?

17 A Not exactly called it off. What happened is that, "Just
18 forget about it." A couple of weeks later Jimmy comes to me
19 and he says, "Nicky The Blonde knows that he's upstate." So I
20 says, "Okay." I says, "You know something, Jimmy, if you can
21 find him, just let it go. Just let it go. It's not that
22 important."

23 And that really as time, it just was forgotten about.
24 It just never happened because any time that I wanted to know
25 where he was, I was very friendly with the family that owned

Tartaglione - Direct/Frank

1 the restaurant, and they used to tell me when they had their
2 Christmas dinners, their Thanksgiving dinners and that, how
3 Christopher -- how tall Christopher had got and how what's her
4 name was. So I could have gotten to him any time I wanted to,
5 but it wasn't important any more.

6 Q You mentioned seeking permission to kill Jimmy General?

7 A Yes.

8 Q Is that the same Jimmy General that you previously
9 nominated for induction into the Bonanno Family?

10 A Yes.

11 Q The same Jimmy General whose induction ceremony you
12 attended?

13 MR. GOLTZER: It's a bit of leading, Judge.

14 A Yes.

15 MR. GOLTZER: I object to it.

16 THE COURT: It's noted. Overruled.

17 Go ahead.

18 Q Why did you want Jimmy General killed?

19 A Because what happened, he was borrowing money from
20 everybody, including me, and it came to a point where he
21 couldn't pay nobody back, he was just swindling everybody and
22 it was getting to a point where he was very, very disrespectful
23 and everything else.

24 And I happened to be with Louie and Sal, and it just
25 happened to come out, I wasn't thinking about it prior to that,

Tartaglione - Direct/Frank

1 and I had mentioned something, I says, "You know something, I
2 think it's time we have to do something with Jimmy."

3 And Louie Ha Ha says, "You know something, just waltz
4 him into the club, we'll take care of the whole thing."

5 Sal says, "Oh, let me do this." Maybe a couple of two
6 or three days later, we wind up in a wake in Staten Island, and
7 we were downstairs and Sal is talking to Bobby Lino, Jr. and he
8 comes over he says, "Listen, Louie, I got it all straightened
9 out. I want you" -- I says, "Forget about it. I was mad that
10 day, I don't want nothing to happen. Just forget about the
11 whole thing." He says, I -- I says, "No, just forget about
12 it." That was the end of it.

13 Q Was Jimmy General ever killed?

14 A No.

15 Q You testified earlier that you knew the defendant Vincent
16 Basciano since the early 1990s?

17 A I would think so.

18 Q Where did you meet him?

19 A On Grand Street, the club on Grand Street.

20 Q Who's club?

21 A Sal Vitale.

22 Q When you met the defendant in the early 1990s, who was he
23 around?

24 A Patty DeFilippo.

25 Q Who was Patty DeFilippo?

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Tartaglione - Direct/Frank

1 A He was a captain in the Bonanno Family.

2 Q Did you know the defendant to have any nicknames?

3 A Patty DeFilippo?

4 Q The defendant, Vincent Basciano.

5 A Vinny Gorgeous.

6 Q Do you know why he was called Vinny Gorgeous?

7 A Do I know why he -- well, he owned a salon.

8 Q What was the name of the salon?

9 A I think it was called Gorgeous Vinny's or something like
10 that.

11 Q When you first met the defendant, did you ask anyone about
12 him?

13 A I asked Patty DeFilippo where did he come from, and Patty
14 DeFilippo was telling me that he's been around a long time,
15 that he used to be the driver for Trinny.

16 Q And did Patty DeFilippo tell you anything else about him?

17 A Well, that he was a good kid.

18 Q Did he tell you what kind of businesses he was involved in?

19 A He was in the bookmaking business, Joker-Poker.

20 Q Did you learn where the defendant lived?

21 A In the Bronx.

22 Q During this period in the early 1990s, did there come a
23 time that you took a trip with the defendant?

24 A Yes.

25 Q Where did you go?

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Tartaglione - Direct/Frank

1 A We went to Las Vegas.

2 Q Who else was on that trip?

3 A Sal Vitale, Louis Restivo myself, Jimmy Valenti. We met
4 Patty in Las Vegas. We met Patty's son in Las Vegas, and we
5 met -- we met Larry in Vegas who was around Vinny.

6 Q Who's Larry?

7 A Larry is a kid that's around Vinny.

8 Q Do you know his last name?

9 A No.

10 Q Do you know what his relationship was with the defendant?

11 A It was a good relationship.

12 Q How do you know that?

13 A Because Vinny thought the world of him.

14 Q How do you know that?

15 A He always said it.

16 Q What --

17 A He said, "He's nuts but he's a good, good, good guy."

18 Q Did he tell you anything else about Larry?

19 A "He takes care of all his businesses," meaning his
20 bookmaking business, his Joker-Poker machines.

21 Q Did you fly to Vegas?

22 A Yes.

23 Q How did you fly there?

24 A Vinny got a junket, and we wind up going by plane. I think
25 we went business class or first class, I forget, it was

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Tartaglione - Direct/Frank

1 something like that. And when we got to Vegas, we were in
2 Vegas.

3 Q Who paid for the tickets?

4 A Well, actually the Mirage Hotel paid for the tickets.
5 Vinny might have paid for it up front but he got reimbursed by
6 the hotel.

7 Q Where did you stay, the Mirage?

8 A Yeah.

9 Q What did you do when you got to Vegas?

10 A We had dinner, this and that, we all gambled, and we all
11 lost quite a few dollars. And then Vinny went down to talk
12 to -- I think the guy's name was Charlie Meyerson.

13 Q Who was Charlie Meyerson?

14 A He ran the junkets.

15 Q Junkets?

16 A Yeah, he puts these groups together and if you're a high
17 roller, he'll make sure he gives you anything you want.

18 Q He worked for the hotel?

19 A You get comps. You know, that's what he does. So when he
20 went down to get the money, he came back up and I says to Sal,
21 I got -- I'm not quite sure the number, I think it was 8500,
22 6500 something like that, for the trip. And Jimmy and Sal
23 Vitale says, "Get a seat."

24 He went downstairs and about an hour later he came up,
25 or even less, and he won 165,000, and he gave us all back our

Tartaglione - Direct/Frank

1 money that we lost.

2 Q You mentioned that Sal Vitale was on that trip. Were you
3 able to observe the interaction between the defendant and Sal
4 Vitale?

5 A Oh, yeah.

6 Q What was that interaction like?

7 A Well, Vinny was very, very friendly with him. Overdid it a
8 little bit. And then when we -- when we were leaving we
9 stopped in haberdashery store. He bought a leisure suit. He
10 bought, you know, a few little items.

11 Q The defendant bought a leisure suit?

12 A Did he buy one for himself?

13 Q I'm sorry. You said he bought him a leisure suit.

14 A Meaning he bought Sal Vitale.

15 Q The defendant bought Sal Vitale --

16 A Yes.

17 Q -- a leisure suit?

18 A Yes.

19 Q What was the defendant's rank in the Bonanno Family at that
20 time, if you know?

21 A He was an associate at that time.

22 Q What was Sal Vitale's rank?

23 A He was a captain and helping running the family.

24 Q You testified that the defendant had a Joker-Poker
25 business. Did you ever have a Joker-Poker business?

Tartaglione - Direct/Frank

1 A Yes.

2 Q How does a Joker-Poker business work?

3 A Well, wherever you deposit the machine, wherever you
4 deposit the machine you go 50/50 with the people to where you
5 deposit that machine after the credits are paid out.

6 Q Are there rules in organized crime about how you claim
7 locations where you place Joker-Poker machines?

8 A You can't claim a place if somebody has a machine there.
9 If you have a machine in a -- in a -- wherever, in a
10 laundromat, you got two machines there, and the machines are
11 doing 20,000 a week and, you know, a guy comes over, he says,
12 Listen, I'm going to buy that laundromat, I'll give you hundred
13 thousand. It's only worth 25,000. No, I'll give you 100,000.
14 He gives him the 100,000. He thinks that he's going to have
15 that spot, but he can't take those machines out and bring it
16 any place. He has to leave. The guy that had that there first
17 keeps it there. So he can never put his machines in the place.
18 That's to stop a lot of confusion where a lot of people think
19 that they can buy a place out and put their on machines in
20 there. You start a lot of problems that way. If the place
21 burns down and the place is not there no more, and five years
22 later somebody builds a place there, that's still your spot.

23 Q That prevents disputes?

24 A Prevents a lot of disputes.

25 Q Did you ever have a sit-down about the defendant's

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Tartaglione - Direct/Frank

1 Joker-Poker business?

2 A Not about his business, about his spot.

3 Q When was that?

4 A 1991, '92. I can't give you the exact time.

5 Q Who did you have the sit-down with?

6 A With the West Side.

7 Q The Genovese family?

8 A The Genovese family.

9 Q Who was present for that sit-down?

10 A Sal Vitale, Patty DeFilippo, myself, and two guys from the
11 West Side.

12 Q What was the nature of that dispute?

13 A The nature of the dispute was the guy from the West Side
14 said it was his spot, Vinny said it was his spot, they were
15 arguing back and forth who won the argument. Nobody one won
16 the argument. Sal straightened it out this way, saying,
17 Listen, let's both of you keep the spot, you both have one
18 machine apiece, or you keep one machine and you whack it up,
19 however you do it. That'll stop the problems.

20 Q Did you ever attend any other sit-downs on the defendant's
21 behalf?

22 A On the defendant's behalf? Not that I can remember.

23 Q Do you recall a sit-down related to the oil business?

24 A Oh, okay. Yes. Yes.

25 Q Tell us about that. When was that?

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Tartaglione - Direct/Frank

1 A Oh, I would say it was in --

2 Q Can you speak into the microphone?

3 A I would say it was around '95, '94.

4 Q Who was involved in that sit-down?

5 A The sit-down was with -- what happened, you have to go back
6 to one square, because there was three or four families that
7 are all involved in the oil business, meaning that --

8 MR. GOLTZER: I object to the witness not answering
9 the question put to him, Judge.

10 MR. FRANK: I'll withdraw the question and reask it.

11 THE COURT: All right.

12 Q You mentioned that there were several families involved in
13 the oil business?

14 A Not several, three or four families.

15 Q How were they involved in the oil business?

16 A That they would turn around and not pay the taxes or the
17 duty on it. And if I remember, I could be possibly wrong, I
18 think it was called a C302 license that you need. But
19 meanwhile, Vinny had a couple of trucks and a lot of other
20 people had a couple trucks.

21 Q What kind of trucks did the defendant have?

22 A If I remember right, it was two or three trucks.

23 Q What kind of trucks?

24 A Oil trucks.

25 Q And did there come a time where the Bonanno Family joined

Tartaglione - Direct/Frank

1 that committee of the families involved in the oil business?

2 A Yes. Vinny wanted to be part of that group that was in
3 charge, so he wanted to go for the Bonanno Family.

4 Q And did he obtain approval for that?

5 A He got approval from Joe Massino.

6 Q And did there come a time when there was a dispute about
7 the defendant's involvement in the oil business?

8 A Yes, there was a dispute.

9 Q Who was the dispute with, what other family?

10 A At that particular time it was with the Colombo family.

11 Q And did there come a time when you attended a sit-down with
12 the Colombo family related to the defendant's oil business?

13 A It wind up he gave me a call, Vinny, gave me a call and
14 says, "Meet me on Exit 20 on the Southern State Parkway." It
15 was convenient for him and it was convenient for me. And we
16 went to meet and he's telling me this here story about who's
17 robbing him and we're not getting a fair shake and everything
18 else.

19 So I says, "You know something, Vinny, I'll get back
20 to you on that." Then at that particular time who comes by,
21 Joe Waverly, a kid named Richie and -- let me see, and I think
22 it was Chippy.

23 Q Who were those people with?

24 A Those were the Colombos.

25 Q Who was Joe Waverly?

Tartaglione - Direct/Frank

1 A At that particular time he was a captain.

2 Q In the Colombo family?

3 A Yes.

4 Q And what happened?

5 A They're saying this about the trucks that Vinny had, and
6 Vinny is saying something about the trucks he had and this and
7 that. And I says, You know something, let me get back to all
8 of you." I went to see Joe and I explained to Joe that there
9 was a little problem there and Vinny feels that this should
10 happen. And maybe he was right. I'm not saying he was wrong.
11 But Joe turned around and said, "Listen, they made all the
12 money already. We're Johnny-come-latelies, why would we
13 want -- tell Vinny to step down from there. Just resign from
14 that post."

15 Q Resign from the oil committee?

16 A Yeah, and call it quits.

17 Q And is that your understanding of what happened?

18 A Yes.

19 Q In the course of your involvement with the Bonanno crime
20 family, did you know somebody named Randy?

21 A Yes.

22 Q Who was Randy?

23 A He was an associate.

24 Q Who was he an associate of when you knew him?

25 A He was an associate for with John Palazzolo.

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Tartaglione - Direct/Frank

1 Q And John Palazzolo was in your crew?

2 A Yes.

3 Q Do you recall Randy's last name?

4 A Pizzolo or something like that.

5 Q When did you first meet Randy?

6 A I met him on Long Island City through John Palazzolo.

7 Q When?

8 A I would say ten, 15 years ago.

9 Q Did you meet him once or more than one once?

10 A Oh, I met him several times.

11 Q Did you ever have any discussions with Randy Pizzolo about
12 what he did for a living?

13 A Randy was in the instruction business. I think he was in
14 the -- with his father or his family in the body shop business.
15 He was just one of -- he just -- any business he could get
16 into, he'd get into it. But he was in construction, in the
17 cement business also.

18 Q Cement?

19 A Yeah.

20 Q Based on your meeting with Randy, what was your impression
21 of him?

22 A My impression of Randy?

23 Q Yes.

24 A For no other better choice of words, nuts as a day is long.

25 Q Why do you say he was nuts as the day is long?

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1 A The guy would argue and fight with everybody. He always
2 had a beef with somebody.

3 Q To your knowledge, was Randy Pizzolo ever inducted into the
4 Bonanno Family?

5 A Not to my knowledge.

6 Q Did you ever have discussions with other members of the
7 Bonanno Family about his desire to be inducted?

8 A Oh, yeah, oh, yeah.

9 Q Who did you have discussions with?

10 A John Palazzolo had intentions for him.

11 Q John Palazzolo had intentions for who?

12 A For Randy.

13 Q He told you that?

14 A Oh, yeah.

15 Q Did John Palazzolo tell you whether Randy wanted to
16 inducted?

17 A He would love.

18 Q Did you ever loan Randy any money?

19 A Oh, yeah.

20 Q When did you do that?

21 A Oh, around that time when he first came around. The job he
22 had, he had a cement job in Harlem, I think he was doing
23 streets or street corners or something like that, and he needed
24 \$10,000 and I lent it to him. Actually, I lent it to John to
25 lend to him.

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Tartaglione - Direct/Frank

1 Q And were you paid back?

2 A Yes.

3 Q Did you receive any interest?

4 A Yes.

5 Q After you began cooperating with the government, did there
6 come a time where you had discussions with John Palazzolo about
7 an incident involving Randy Pizzolo?

8 A He was in a restaurant called something On The Green off
9 the Cross Island Parkway. And him and, meaning, John Palazzolo
10 and Paulie, Fat Paulie were at the bar and all of a sudden
11 somebody ran in and told John and Paul, "Randy just shot
12 somebody outside."

13 Paulie and Randy went out the back door and left.

14 Q Who told you that?

15 A John.

16 Q Palazzolo?

17 A Yes.

18 Q Who was Randy around at the time of the shooting?

19 A I think he was around John.

20 Q And do you know if that restaurant was, where the shooting
21 occurred, was that restaurant in any way associated with
22 organized crime?

23 A Oh, yeah.

24 Q How?

25 A It belonged to, I got the name on the tip of my tongue,

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Tartaglione - Direct/Frank

1 Tony Doors and he's a soldier in the Gambino Family.

2 Q What, if anything, did John Palazzolo tell you about who
3 Randy was around after the shooting?

4 A Vinny. He released him to Vinny in the Bronx.

5 Q John Palazzolo released him to Vinny in the Bronx?

6 A Yeah.

7 Q Do you know what, if anything, happened as a result of the
8 shooting?

9 A No.

10 Q Do you know when the shooting occurred?

11 A No.

12 Q You heard about it afterwards?

13 A Yes.

14 Q Did you ever hear about any disputes involving Randy and
15 other members of your crew?

16 A Not really.

17 Q Did you ever hear about any disputes involving Randy and
18 Jimmy General?

19 A They might have argued, but I argued with Jimmy and so and
20 so argues with somebody else. I don't know what you're saying.

21 Q Did there come a time where Jimmy General told you he was
22 angry about situations involving Johnny Oil?

23 A Oh, yeah.

24 Q Who was Johnny Oil?

25 A He was a guy who was around -- he's guy that's around

Tartaglione - Direct/Frank

1 Jimmy.

2 Q What kind of relationship did Johnny Oil and Jimmy have?

3 A A good relationship. They had a good relationship.

4 Q And when you say "Johnny Oil was around Jimmy," what do you
5 mean by that?

6 A He was really on record with Jimmy.

7 Q He kicked up to Jimmy?

8 A I don't know if he ever kicked up to Jimmy. I think the
9 poor guy was in trouble himself.

10 Q He paid money to Jimmy?

11 A If there was -- if there was something to do, yes. But I
12 think Johnny Oil was broke. I don't know if he kicked up
13 anything to Jimmy.

14 Q And did there come a time where Jimmy told you about a
15 dispute involving Johnny Oil?

16 A Yes.

17 Q What was -- what did he tell you?

18 A That Johnny Palazzolo, somebody that he met said that
19 Johnny Oil owes them a lot of money and this and that. They --
20 he deserves the money. And Jimmy turned around and says, "It's
21 not true."

22 Johnny found the guy, and now he's backing up the guy.
23 But in a round about way I straightened it out. I spoke to
24 John and John turned around and he says "No, no, the guy,
25 forget about it." You know, told Jimmy not to be concerned

Tartaglione - Direct/Frank

1 about that.

2 Q And was that at the time that Randy Pizzolo was around John
3 Palazzolo?

4 A Yes.

5 Q Do you recall if Jimmy told you anything about Randy's
6 involvement in that dispute?

7 A There was an argument there, you know. There was an
8 argument there.

9 Q And do you recall Jimmy's reaction to that dispute?

10 A He was just upset, that's all.

11 Q Do you know how that dispute was resolved?

12 A It was all forgotten about. When I say "all forgotten
13 about," they left Johnny Oils alone, and that was it.

14 Q Do you know of an individual known as Junior?

15 A Yes.

16 Q Who's Junior?

17 A Junior DiCaprione. He owns a restaurant bar on
18 Vernon Boulevard.

19 Q Is he involved in organized crime in any way?

20 A Well, he's very friendly with Nicky The Blonde.

21 Q Who is Nicky The Blonde?

22 A He's a soldier in the Genovese Family.

23 Q Did Jimmy General -- withdrawn.

24 Did you ever learn of a dispute involving Junior?

25 A Yes.

Tartaglione - Direct/Frank

1 Q What was the nature of that dispute?

2 A Paulie Spina gets straightened out. So now Paulie Spina is
3 using his oats, and he goes into, meaning, straightened out, he
4 becomes a soldier in the Bonanno Family.

5 He, he sends or supposedly sends this Randy into
6 Junior DiCaprione's bar and restaurant and starts a problem.
7 Junior calls up Paulie Spina. Paulie Spina comes there,
8 Randy's not there. Paulie Spina tells Nicky, Nicky -- I mean,
9 Junior, don't worry about it. I'll take care of everything.

10 Now by accident, well, by just whatever, three days
11 later Paulie goes into the cafe bar, the bar in, you know,
12 whatever. And who comes in, unbeknownst, Randy Palazzolo and
13 he straightens out the matter.

14 But meanwhile, what's is that Junior DiCaprione tells
15 Nicky The Blonde, he sits down with Joe Saunders and they
16 straighten it out amongst them, and that ended that. But it
17 was a set up.

18 In other words, he wants to turn it around. He was
19 looking to shake Junior down and that was his friend.

20 Q Who wanted to shake Junior down?

21 A Paulie Spina.

22 Q So your understanding was that Paulie Spina had sent Randy
23 in there?

24 A Yes.

25 Q To cause trouble?

Tartaglione - Direct/Frank

1 A Yes.

2 Q And then so he could straighten it out?

3 A Yeah.

4 Q Is that a technique you're familiar with in organized
5 crime?

6 A It happens, but not when you do it to friends.

7 Q And after something like that happens, what is the business
8 owner supposed to do to the person who straightens out the
9 dispute?

10 A Take care of them. You get a salary once a month. You
11 come in, I'll get ya a case of wine, or I'll give you 200 a
12 month and I use your name or whatever.

13 Q Who told you about that dispute?

14 A Who told me about that?

15 Q Yes.

16 A General.

17 Q Jimmy?

18 A Jimmy General.

19 Q Did there come a time where you met with another family
20 about Randy?

21 A Say that again.

22 Q Let me withdraw the question.

23 Do you know who Jackie Nose is?

24 A Yes.

25 Q Who is Jackie Nose?

Tartaglione - Direct/Frank

1 A Jackie The Nose is a captain with the Gambino Family and at
2 that particular time he was an acting street boss.

3 Q At what particular time?

4 A When this thing happened with Randy.

5 Q So did there come a time where you met with Jackie Nose
6 about Randy?

7 A I get a call to meet with Jackie The Nose, and I go meet
8 Jackie The Nose. And he turns around and he tells me, "I want
9 you to give this to John Palazzolo because Randy's a rat."

10 And --

11 Q E wanted to you give what to John Palazzolo?

12 A It was a piece of paper, an incident report.

13 Q An incident report from where?

14 A From the Louisburg Camp.

15 Q And who had been incarcerated at the Louisburg Camp?

16 A Randy and Kasman.

17 Q Who is Kasman?

18 A The so-called stepson of John Gotti.

19 MR. GOLTZER: May we have a time frame?

20 THE COURT: Yes.

21 BY MR. FRANK: :

22 Q When was it?

23 A I would say '94, '95.

24 Q That's when you met with Jackie Nose?

25 A Yeah, sometime around that time.

Tartaglione - Direct/Frank

1 Q And was it your understanding the incident happened
2 sometime before that?

3 A Oh, yeah, it had happened before that.

4 Q Do you know precisely when the incident happened?

5 A No, I can't recall. It happened within that year or that
6 month.

7 Q And this incident report that, that -- withdrawn.

8 This incident report that Jackie Nose gave you, what,
9 what was that document about?

10 A What happened was, supposedly Randy got into an argument
11 with this Kasman; smacks Kasman in the face or gives him a rap.

12 A couple of days later Kasman sends four or five guys
13 to give Randy a beating, in which they do. Randy signs an
14 incident report stating who it was that gave him the beating,
15 and that was the incident report I received.

16 Q Randy reported the incident?

17 A Yes.

18 Q What, if anything, did Jackie Nose ask you to do about it?

19 A Chase him.

20 Q What does that mean?

21 A Let him go.

22 Q What does it mean to chase somebody?

23 A Not to have them around you.

24 Q And did Jackie Nose ask for Randy to be killed?

25 A No.

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Tartaglione - Direct/Frank

1 Q What did you do?

2 A I brought it to John Palazzolo, John Palazzolo says it was
3 all a lie. I says, "That's up to you."

4 Q John Palazzolo says what?

5 A It was all a lie; never happened.

6 Q Did you pursue it any further?

7 A No.

8 Q You testified earlier that you were arrested in, you said
9 1997?

10 A Yes.

11 Q And at some point you pled guilty?

12 A Yes.

13 Q And you went to prison?

14 A Yes.

15 Q While you were in prison, did you receive visits from the
16 members of the Bonanno Family?

17 A Yes.

18 Q Who visited you?

19 A Sal Vitale, Joe Shakes.

20 Q When were you released from prison?

21 A 2002.

22 Q Where did you go at that point?

23 A To Florida.

24 Q I believe you testified earlier you were on supervised
25 release at that point?

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1 A Yes.

2 Q Did you have to report to a probation officer?

3 A Yes.

4 Q What was the name of the probation officer?

5 A Pete Williams.

6 Q And again, what were the terms of your supervised release?

7 A To stay away from organized crime or anybody that has a
8 felony.

9 Q Did you follow those rules?

10 A Yes.

11 Q Did you meet with anybody involved in organized crime?

12 A Yes.

13 Q Who did you meet with?

14 A I met with Joe Massino, Tony Green, Louie Electric picked
15 me up and took me to Tony Green's house. I met with
16 Joe Massino.

17 Q Where did you meet with Joe Massino?

18 A A couple of times at Tony Green's house and a couple of
19 times on the beach.

20 Q And when you met with him at Tony Green's house, Louie
21 Electric drove you there?

22 A Yes.

23 Q At those meetings did you talk with Joe Massino and
24 Tony Green about Bonanno Family business?

25 A Yes.

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Tartaglione - Direct/Frank

1 Q At that time what was your position in the Bonanno Family?

2 A I was a captain.

3 Q What had happened to your crew while you were in prison?

4 A They were divided up.

5 Q Given to other people?

6 A Yes.

7 Q What, if anything, did Massino say to you at those meetings
8 about your role in the family?

9 A He wanted me to come back and he wanted me to be part of
10 the family -- he wanted me to take over parts of the family.

11 Q Did he want you to have a title?

12 A Yes.

13 Q What title?

14 A He wanted me to be the underboss.

15 Q Who was the underboss at that time?

16 A Sal Vitale.

17 Q How did you respond?

18 A I refused it.

19 Q Why?

20 A First of all, I don't think it was right that Sal Vitale at
21 that particular time did a lot of work for Joe while Joe was in
22 jail. And the way the other families would look at it, it
23 wouldn't look too good. In my eyes.

24 The other thing is I didn't want to come back. So I
25 was looking to okie doke them, saying I didn't want this

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1 position because of that. So I was looking for every excuse
2 not to come back.

3 Every time he says, "When are you going to come back?"
4 I said, "I got to sell my house and buy another place," or
5 whatever. It was just a number of excuses.

6 Q During your meetings with Joe Massino and Tony Green in
7 this time period, did you discuss individuals who you thought
8 might be cooperating with the government?

9 A Yes.

10 Q Who?

11 A Frankie Coppa, Richie Shellack Head.

12 Q Had they been arrested, Frankie Coppa and Richie Shellack
13 Head?

14 A Yes.

15 Q At that -- at either of those meetings with Joe Massino,
16 did he talk at all about the defendant?

17 MR. GOLTZER: May we have a time frame?

18 Q The period after you got out of prison and you were on
19 supervised release in 2002, 2003?

20 A He said -- no, it was 2002, that I spoke to -- meanwhile,
21 said that Vinny was the greatest guy. Forget about it. What a
22 great guy. Good, good, good guy.

23 Q Did Tony Green say anything about the defendant?

24 A Good, good, good guy.

25 Q In early 2003, did there come a time where you learned

Tartaglione - Direct/Frank

1 about the arrest of any other Bonanno Family members?

2 A Sal Vitale.

3 Q Anyone else?

4 A Joe Massino.

5 Q After Sal Vitale and Joe Massino were arrested in early
6 2003, did there come a time where you learned that one of those
7 individuals was cooperating with the government?

8 A Yes.

9 Q Who?

10 A Sal Vitale.

11 Q How did you learn that information?

12 A Jimmy got a hold -- somebody got a hold of me to get a hold
13 of Jimmy. I called up Jimmy and Jimmy told me that the word is
14 out that Sal became an informant.

15 Q Were you worried about Sal becoming an informant?

16 A No question.

17 Q Why?

18 A He knew all my moral sins. He knew everything, or most
19 things.

20 Q Like what?

21 A He knew I was involved with two murders, the arson, the
22 extortion.

23 Q And was Jimmy involved in either of those murders?

24 A Was Jimmy involved --

25 Q In either murder?

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1 A With one murder.

2 Q He was involved with one of them?

3 A With the Russell murder.

4 Q After you learned that Sal Vitale was cooperating with the
5 government, did you make a decision yourself?

6 A Yes.

7 Q What did you decide?

8 A I decided to become an informant.

9 Q Why did you make that decision?

10 A Why did I make it? Because I didn't want to go to jail.

11 Q Why did you think you were going to go to jail?

12 A Because of all the things that Sal knew about me.

13 Q What did you do?

14 A I went to see Pete Williams, Pete Williams set up an
15 appointment, and that's what happened.

16 Q Who did you set up an appointment with?

17 A Greg Andres, two FBI agents, and Ruth Nordenberg.

18 Q Who's Ruth Nordenberg?

19 A She's a prosecutor for the Eastern District Court.

20 Q And how did you know Ruth Nordenberg?

21 A She prosecuted me.

22 Q She prosecuted you back in '97?

23 A Yes.

24 Q And did you in fact have a meeting with those individuals?

25 A Yes.

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1 Q Who were the two FBI agents?

2 A Greg Massa and Joe Bonavolonta.

3 Q Did you have one meeting or more than one?

4 A I had a few.

5 Q Did you get a lawyer?

6 A Yes.

7 Q Was it the same lawyer who represented you back in '97,
8 '98?

9 A No.

10 Q Did you tell that earlier lawyer that you were talking with
11 the government?

12 A Say that again, please.

13 Q Did you tell the lawyer that you had in '97, '98, that you
14 were now talking to the government?

15 A No way.

16 Q Why not?

17 A He would have told everybody else that I became an
18 informant.

19 Q Who would he have told?

20 A Well, he was friendly with everybody. I don't know, but
21 that was my I opinion. I'm not saying he would. That was my
22 opinion.

23 Q Were there other individuals in organized crime that he
24 represented, to your knowledge?

25 A Matty The Horse, Louie Ha Ha. So many, I can't think of

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1 all of their names now.

2 Q Who is Matty The Horse?

3 A I think he's a captain in the Genovese Family.

4 Q And Louie Ha Ha?

5 A A soldier in, a soldier in the Bonanno Family.

6 Q What happened during those meetings with the government?

7 A They ask you questions and you give them answers.

8 Q Questions about what?

9 A About my life in organized crime.

10 Q Did you tell them about all the crimes you committed?

11 A Yes, I did.

12 Q Did you tell them about crimes other people committed that
13 you were aware of?

14 A Yes.

15 Q Did there come a time when you signed a cooperation
16 agreement?

17 A Yes.

18 Q When was that?

19 A Oh, I would say 2003 sometime.

20 Q As part of your cooperation agreement, did you plead guilty
21 to certain charges?

22 A Yes.

23 Q What did you plead guilty to?

24 A I pleaded guilty to two murders, arson.

25 Q I believe you talked earlier about racketeering conspiracy?

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1

2 A Racketeering, conspiracy to racketeering.

3 Q And when you pled guilty to racketeering conspiracy to the
4 crimes you just mentioned, was there an enterprise involved?

5 A The Bonanno Enterprise.

6 Q And the murders that you acknowledge participating in,
7 whose murders were those?

8 A Russell and Cesar.

9 MS. MERKL: Your Honor, I'd like to show the witness
10 what's been marked for identification as 3500JT2A.

11 THE COURT: All right.

12 MR. GOLTZER: No objection.

13 THE COURT: All right. You offering it, Mr. Frank?
14 You're offering it, yes?

15 MR. FRANK: Yes, once the witness identifies it.

16 THE COURT: All right, that's fine.

17 BY MR. FRANK: :

18 Q Do you recognize that document?

19 A Yes.

20 Q What is it?

21 A It's my cooperation agreement.

22 Q Can you turn to the last page.

23 (Witness complies.)

24 Q Is that your signature on the last page?

25 A Yes.

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1 Q Thank you.

2 MR. FRANK: Government offers 3500JT2A.

3 THE COURT: All right. Government's Exhibit 3500JT2A
4 is received into evidence without objection.

5 MR. FRANK: Thank you, your Honor.

6 (Government's Exhibit 3500JT2A so marked.)

7 THE COURT: Okay.

8 BY MR. FRANK: :

9 Q What's your understanding, sir, of the maximum sentence
10 that you face?

11 A Life in prison.

12 Q What's the minimum?

13 A No sentence.

14 Q Are you currently on bail?

15 A Yes.

16 Q Since the time you pled guilty to racketeering in 2003,
17 have you spent any time in jail?

18 A No.

19 Q Do you have a sentencing date yet?

20 A No.

21 Q What's your understanding of what you have agreed to do
22 under this agreement?

23 A Cooperate fully.

24 Q What does that mean?

25 A Just to tell the truth about everything that I know about.

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1 Q You know what a 5K letter is?

2 A Yes.

3 Q What's a 5K letter?

4 A It's a letter that the prosecutor sends to the judge.

5 Q What does a 5K letter permit the judge to do, in your
6 understanding?

7 A It could help me with my sentence.

8 Q Is the judge required to give a lower sentence if he gets a
9 5K letter?

10 A No.

11 Q Are you guaranteed a 5K letter?

12 A Say that again?

13 Q Are you guaranteed a letter?

14 A Yes.

15 Q You're guaranteed a 5K letter?

16 A As long as I don't lie.

17 Q What happens if you lie?

18 A You rip up my papers.

19 Q And if you don't get that letter, what's the sentence you
20 face, potentially?

21 A Life in prison.

22 Q I'm sorry?

23 A Life in prison.

24 Q As part of your cooperation agreement, did you agree to
25 consensually record conversations of other members of organized

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1 crime?

2 A Yes.

3 Q Did you also record phone conversations with members of
4 organized crime?

5 A Yes.

6 Q Did you wear a recording device to meetings with members of
7 organized crimes?

8 A Yes.

9 Q What period of time did you do this?

10 A I would say from 2003 until the beginning of 2004.

11 Q Who were some of the individuals you recorded?

12 A Vinny, Joe Saunders, Tony Green, Jimmy, Scott Lehman, John
13 Palazzolo, Paulie Spena, Larry Bronson, Louie Ha Ha.

14 Q You mentioned Scott Lehman and Larry Bronson, who were
15 those individuals?

16 A They were lawyers.

17 Q And did they at any time represent you?

18 A Yes.

19 Q Do you recall in this period of time whether Scott Lehman
20 related any messages between you and Joe Massino?

21 A Yes.

22 Q Where was Joe Massino at that time?

23 A He was incarcerated.

24 Q In the course of your conversations with Scott Lehman, did
25 you ever hear the name Thomas Lee?

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1 A Yes.

2 Q Or Tommy Lee?

3 A Yes.

4 Q Who was Tommy Lee?

5 A A lawyer.

6 Q Do you know him?

7 A No.

8 Q Ever met him?

9 A Not to my knowledge, no.

10 Q How did you hear his name?

11 A We were, we were in, we were on 14th Street, around that
12 area. And I was with Scott Lehman, and we were talking and he
13 got a phone call from Tommy Lee. And when he picks up the
14 phone, it was cellular phone, he picks it up and he says hi
15 Tommy Lee. He turns around and says, that's Tommy Lee, the
16 lawyer. He's says, I'll let you know.

17 He turns around and he says, he's telling me the
18 story. Tommy Lee tried to get in to see Frankie Lino, and they
19 refused to let him go see him. And they made a big hassle over
20 it, and he left. So he was telling me Tommy -- Scott Lehman
21 was explaining the story to me about Tommy Lee and what
22 happened that, that confirms that Frankie Lino became an
23 informant because they won't let him see him.

24 Q And you mentioned that you met with the defendant and
25 recorded the defendant?

Tartaglione - Direct/Frank

1 A Yes.

2 Q How many times did you record -- meet with and record the
3 defendant?

4 A Two times.

5 Q At that time do you know what the defendant's position in
6 the Bonanno Family was?

7 A He was a captain.

8 Q How do you know that?

9 A I was introduced to him as a captain.

10 Q Who introduced you to him as a captain?

11 A Tony Green.

12 Q That was at the first meeting?

13 A Yes.

14 Q And was there anyone else present at that first meeting
15 between you and the defendant, other than Tony Green?

16 A No, it was just us three.

17 Q And then you said there was a second meeting?

18 A Yes.

19 Q Who was present at that second meeting with the defendant?

20 A Joe Saunders, Tony Green, and myself.

21 Q Were any of those individuals present for only a portion of
22 the meeting?

23 A Joe Saunders.

24 Q He came late?

25 A He came late.

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1 Q And at that time who was Tony Green?

2 A He was the, he was acting consiglieri.

3 Q How do you know that?

4 A Because I was introduced to him as that.

5 Q By whom?

6 A By Vinny.

7 Q And who was Joe Saunders?

8 A He was the acting underboss.

9 Q Where did these meetings take place?

10 A In diners.

11 Q Diners where?

12 A They were on Long Island someplace.

13 Q Do you recall approximately how long that first meeting
14 with the defendant and Tony Green lasted?

15 A Say that again, please.

16 Q How long was the first meeting, if you recall?

17 A I would say a couple of hours.

18 Q When you were on supervised release, are you permitted to
19 meet with other members and associates of organized crime?

20 A No.

21 Q How did you set up those meetings if you weren't permitted
22 to meet with those individuals?

23 A Well, one time I set it up with Tony Green. I met him, got
24 a phone number, he called me and we went to meet. And another
25 time we made a destined time to meet in three weeks on a Sunday

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1 or Saturday at a certain time. Another time we related a
2 message to, through Sal The Plumber.

3 MR. FRANK: Your Honor, is this a good time to break?

4 THE COURT: I think so.

5 MR. FRANK: Since you're standing.

6 THE COURT: I think so. All right, members of the
7 jury, this completes our work for today and for this week.
8 We'll resume on Monday morning at 9:30. Let me remind you,
9 again, not to discuss the case with anyone; not to discuss the
10 case among yourselves. If you're taking notes, please leave
11 them in the jury deliberation room. You can leave the binders,
12 if you still have them, on your seats in this room.

13 Do not read, listen to, watch, or access on the
14 internet any accounts of this case. Do not attempt any
15 independent research about the case. Do not visit any of the
16 locations that have been identified during the course of
17 testimony. And I wish you all a Happy Easter, if you celebrate
18 Easter. We will see you Monday morning.

19 Thank you very much for your attention. All rise for
20 the jury.

21 (Jury excused at 6:05 p.m.)

22 THE COURT: Everyone may be seated. All right, the
23 witness may stand down. We'll resume Monday morning at 9:30 I
24 direct you not to discuss your testimony with anyone.

25 Do you understand?

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1 THE WITNESS: Yes.

2 THE COURT: Okay. All right, you're excused, sir.

3 (Witness was excused.)

4 THE COURT: All right, is there anything further for
5 this evening from the government?

6 MR. FRANK: No.

7 THE COURT: From defense?

8 MR. GOLTZER: Yes, very briefly. It would be helpful
9 if the Court would ask the government to advise us who their
10 next cooperator will be, so we can expedite.

11 MS. MERKL: Now that we've been asked --

12 THE COURT: What's that.

13 MS. MERKL: We have told the defense we will let them
14 know, and we will.

15 THE COURT: Well, how much longer do you have on
16 direct for this witness?

17 MR. FRANK: A few minutes. A few minutes of the
18 direct and then the tapes.

19 THE COURT: And the tapes are like two hours long?

20 MR. FRANK: The first tape is about an hour and 45
21 minutes, and the second tape is about 30 minutes.

22 THE COURT: Okay. And then --

23 MR. GOLTZER: I hope to be through with this witness
24 by the end of the day on Monday, if we go till 6:00. So it
25 would really be helpful if we knew who it was going to be so we

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1 could use this three-day weekend to decide, number one, who's
2 going to cross examine the next witness and then prepare for
3 it.

4 THE COURT: When will you have an answer on that
5 subject?

6 MS. MERKL: Your Honor, now that we have an
7 understanding of Mr. Goltzer's expected length of
8 cross-examination, at this point it looks like
9 James Tartaglione will probably be the only witness for Monday.
10 Is that correct?

11 MR. GOLTZER: Yes.

12 MS. MERKL: Okay. So we will discuss it and we will
13 let Mr. Goltzer know as soon as we've made a determination. It
14 should be today or tomorrow morning.

15 MR. GOLTZER: Fine.

16 THE COURT: Okay.

17 MR. GOLTZER: It was one other thing I would like to
18 raise with the court; perhaps it might be done at side bar with
19 the government and Jasper.

20 THE COURT: What kind of thing?

21 MR. GOLTZER: Well, I can do it in public. It's all
22 right.

23 THE COURT: Yeah, let's try to operate in the light of
24 day.

25 MR. GOLTZER: I want the Court to know, I represent

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1 this to you as an officer of the court, Mr. Jasper represents
2 it to you as an officer of the court. He didn't feel well when
3 I took over the cross. There was an article in the Times that
4 caused him great damage. Nothing we can do about it. The
5 press has a right to print what they want.

6 There's a big difference between Mr. Jasper having
7 spent 20 minutes in the courtroom and being able to sit at
8 counsel table and be well enough to continue cross. Nobody was
9 being disingenuous, Judge.

10 No one was paying anybody to be here. I just want you
11 to know we're not playing games. We'd like, we'd like to move
12 past it too. That's all I wanted to say, Judge.

13 THE COURT: Okay. Anything further?

14 MR. GOLTZER: Have a nice holiday.

15 THE COURT: Have a good Easter everyone.

16 MS. MERKL: Happy Easter, Judge.

17 (Trial adjourned to Monday, April 25, 2011, at
18 9:30 a.m.)
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21
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25

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I N D E X

WITNESSES

JOSEPH MASSINO
Cross/Jasper 5543
Redirect/Merkl 5580, 5600
Recross/Jasper 5597, 5602

WILLIAM ANDREW
Direct/Merkl 5606

CHARLES ROONEY
Direct/Frank 5614
Cross/Goltzer 5625

RITA FITZPATRICK
Direct/Argentieri 5629

JOSEPH RAUCHET
Direct/Argentieri 5652
Cross/Goltzer 5658

JOSEPH BONA VOLONTA
Direct/Frank 5662
Cross/Goltzer 5698
Redirect/Frank 5707
Recross/Goltzer 5708

JAMES TARTAGLIONE
Direct/Frank 5719

EXHIBITS

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